TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. 285.

JOSEPH B. STEWART, APPELLANT,

vs.

THE NATIONAL UNION BANK OF MARYLAND, THE NATIONAL MECHANICS' BANK OF BALTIMORE, LAWRENCE P. BAYNE, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

FILED NOVEMBER 11, 1870.

SUPREME COURT OF THE UNITED STATES.

No. 285.

JOSEPH B. STEWART, APPELLANT,

vs.

THE NATIONAL UNION BANK OF MARYLAND, THE NATIONAL MECHANICS' BANK OF BALTIMORE, LAWRENCE P. BAYNE, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

INDEX.

	Original.	Print.
Style of court	1	1
Bill of complaint	2	1
Exhibits S, No. 1	28	11
No. 2	35	14
No. 3	42	17
Nos. 4 and 5	51	21
No. 6	63	22
No. 7	62	25
No. 8	63	26
No. 9	70	29
No. 10	72	30
No. 11	72	30
Summons	73	30
Marshal's return	75	31
Demurrer and answer	75	31
Answer	85	35
Answer of L. P. Bayne	103	42
Answer of John Honeywell	110	45
General replication	117	47
Amended bill	118	48
Exhibit A, No. 2	121	49
Bill and petition	139	56
Exhibit O N B, No. 1	144	58
Order	166	66
Amended bill	167	67
Petition and order	168	67
Amended bill	170	68
Exhibit A B, No. 1	177	71

	Original.	Print.
Summons	181	72
Marshal's return	182	73
Agreement	183	73
Schedule A 2, and petition	184	74
Opinion	186	74
Decree	198	79
Appeal	199	80
Agreement to submit case for final hearing	199	80
Decree	200	80
Appeal	201	80
Appeal bond	201	80
Citation	205	81
Clerk's certificate	207	82

1 THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit, in and for the Maryland district, began and held at the city of Baltimore on the first Monday in November, (being the first day of the same month,) in the year of our Lord one thousand eight hundred and sixty-nine—present, the Honorable William F. Giles, judge of Maryland district; Archibald Stirling, esquire, attorney; Edward Y. Goldsborough, esquire, marshal; James W. Chew, clerk—among other, were the following proceedings, to wit:

JOSEPH B. STEWART
vs.
THE NATIONAL UNION BANK OF MARYLAND, the National Mechanics' Bank of Baltimore, the National Exchange Bank of Baltimore, Lawrence P. Bayne, William T. Hough, John Honeywell, William Bayne, Allen A. Chapman, and Horatio R. Riddle, and Conway, Slaughter & Co., John J. Chancellor, A. N. Bastable & Co., Thomas N. Walter, Martha Bell, Samuel Turbett, John Deity, W. M.
2 Myerberg, Kirkland, Chase & Co., Oscar King, William D. Jones & Co., O. Brochure & Co., and William Fell Giles, Jun'r.

Be it remembered that heretofore, to wit, on the ninth day of October, in the year of our Lord one thousand eight hundred and sixty-eight, the Joseph B. Stewart came into the circuit court here, sitting as a court of equity, by his solicitors, William F. Giles, Jun'r, John S. Hanan, and Allan B. Magruder, esquires, and filed in court here the following bill of complaint, to wit:

Circuit Court of the United States for the District of Maryland.

JOSEPH B. STEWART, COMPLAINANT,
against
THE NATIONAL UNION BANK OF MARYLAND, the National Mechanics' Bank of Baltimore, the National Exchange Bank of Baltimore, Lawrence P. Bayne, John Honeywell, William T. Hough, William Bayne, Allen A. Chapman, and Horatio R. Riddle, defendants.

To the honorable the Judges of the circuit court of the United States for the District of Maryland:

Your orator, Joseph B. Stewart, a citizen of the State of New York, for himself and all other parties who having the right may hereafter join your orator in the prosecution of this suit, brings this bill of complaint against the National Union Bank of Maryland, the National Mechanics' Bank of Baltimore and the National Exchange Bank
3 of Baltimore, all three national banking associations doing business and domiciled in the State of Maryland, and Lawrence P. Bayne, John Honeywell, and William T. Hough, late partners under the name, style, and firm of Bayne & Co., and William Bayne, Allen A. Chapman, and Horatio R. Riddle, trustees of said Bayne & Co., all of whom are citizens of the State of Maryland.

	Original.	Print.
Summons	181	72
Marshal's return	182	73
Agreement	183	73
Schedule A 2, and petition	184	74
Opinion	186	74
Decree	198	79
Appeal	199	80
Agreement to submit case for final hearing	199	80
Decree	200	80
Appeal	201	80
Appeal bond	201	80
Citation	205	81
Clerk's certificate	207	82

1 THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore on the first Monday in November, (being the first day of the same month,) in the year of our Lord one thousand eight hundred and sixty-nine—present, the Honorable William F. Giles, judge of Maryland district; Archibald Stirling, esquire, attorney; Edward Y. Goldsborough, esquire, marshal; James W. Chew, clerk—among other, were the following proceedings, to wit:

JOSEPH B. STEWART
vs.
THE NATIONAL UNION BANK OF MARYLAND, the National Mechanics' Bank of Baltimore, the National Exchange Bank of Baltimore, Lawrence P. Bayne, William T. Hough, John Honeywell, William Bayne, Allen A. Chapman, and Horatio R. Riddle, and Conway, Slaughter & Co., John J. Chancellor, A. N. Bastable & Co., Thomas N. Walter, Martha Bell, Samuel Turbett, John Deity, W. M.
2 Myerberg, Kirkland, Chase & Co., Oscar King, William D. Jones & Co., O. Brochure & Co., and William Fell Giles, Jun'r.

Be it remembered that heretofore, to wit, on the ninth day of October, in the year of our Lord one thousand eight hundred and sixty-eight, the Joseph B. Stewart came into the circuit court here, sitting as a court of equity, by his solicitors, William F. Giles, Jun'r, John S. Hanan, and Allan B. Magruder, esquires, and filed in court here the following bill of complaint, to wit:

Circuit Court of the United States for the District of Maryland.

JOSEPH B. STEWART, COMPLAINANT,
against
THE NATIONAL UNION BANK OF MARYLAND, the National Mechanics' Bank of Baltimore, the National Exchange Bank of Baltimore, Lawrence P. Bayne, John Honeywell, William T. Hough, William Bayne, Allen A. Chapman, and Horatio R. Riddle, defendants.

To the honorable the Judges of the circuit court of the United States for the District of Maryland:

Your orator, Joseph B. Stewart, a citizen of the State of New York, for himself and all other parties who having the right may hereafter join your orator in the prosecution of this suit, brings this bill of complaint against the National Union Bank of Maryland, the National Mechanics' Bank of Baltimore and the National Exchange Bank
3 of Baltimore, all three national banking associations doing business and domiciled in the State of Maryland, and Lawrence P. Bayne, John Honeywell, and William T. Hough, late partners under the name, style, and firm of Bayne & Co., and William Bayne, Allen A. Chapman, and Horatio R. Riddle, trustees of said Bayne & Co., all of whom are citizens of the State of Maryland.

And your orator, complaining for cause of action, says: That your orator is a creditor of the said Bayne & Co., who were lately a firm engaged in the business of banking in the city of Baltimore; that said indebtedness consists of two judgments rendered in the supreme court of the State of New York, one for about $1,800 00, and the other for about $1,000 00, as will more fully appear by the exemplified copies of said judgments filed herewith and made part of this complaint, marked Exhibits S, No. 1, and S, No. 2.

That Leonard Huyck, late president of the Merchants' National Bank of Washington, D. C., is also indebted to your orator to an amount exceeding $200,000 00, for about $177,000 00 of which your orator sued and obtained a judgment against said Huyck in the supreme court of the district of New York; as will more fully appear by an exemplified copy of said judgment-roll made part hereof marked Exhibit S, No. 3.

That said firm of Bayne & Co. are indebted to said Huyck in
4 the sum of about $260,000 on an account stated by said Bayne & Co., on or about the first day of December, 1865, as will more fully appear by a copy of said account, made part hereof, and will be filed marked Exhibit S, No 4.

That for a valuable consideration the said Huyck assigned, transferred, and delivered to your orator the said account, and all and singular the rights of action, suit and demand thereon; as will more fully appear by said assignment, a copy of which is made part hereof, and will be filed, marked Exhibit S, No. 5.

That your orator thereupon, and after the said assignment, brought suit against said Bayne & Co., in the supreme court of the State of New York, and duly served a summons and complaint on said Bayne & Co., setting forth a copy of said account with the said cause of complaint. That said Bayne & Co. appeared and plead to said cause of action, and as special ground of defense and answer thereto stated and showed the fact, that on or about the 30th day of May, 1868, the said Lawrence P. Bayne applied for the benefit of the bankrupt law before this honorable court, and that on or about the 8th day of July, 1868, the said Lawrence P. Bayne was adjudged a bankrupt, and that the claim alleged by your orator was, if correct, such as was proveable before the commissioner in bankruptcy, and thereby interposed said defense of bankruptcy as a bar to the further prosecution of said suit, as will
5 more fully appear by an exemplified copy of the record and pleadings of said suit, made part hereof, marked Exhibit S, No. 6.

Your orator further states that besides the account and claim against the said Bayne & Co., hereinbefore mentioned assigned to your orator by said Huyck, Exhibit S, No. 5, *that* said Huyck assigned to your orator any and all claims and demands, choses in action, and all causes of claim, demand, or suit, at law or in equity, and especially any and all debts, dues, or admissions of debts and dues in the schedule or list of creditors of said Bayne & Co. as exhib'ed by said L. P. Bayne, in his petition for the benefit of the bankrupt law as aforesaid. That in said schedule of creditors the said Huyck is shown to be a creditor of said Bayne & Co., in the sum of about $56,315 00, as will more fully appear by a copy of said schedule of creditors of said Lawrence P. Bayne, filed with his petition applying for the benefit of the bankrupt law, made part hereof, marked Exhibit S, No. 7.

That your orator is also a creditor of Charles H. Stewart to the amount of about $65,000 00, in consideration of which your orator received and now holds the acceptances of said Bayne & Co., to the amount of $62,148 86, as will be shewn unto this honorable court.

And your orator further states that the defendants, the National Union Bank of Maryland, the National Mechanics' Bank of Baltimore, and the National Exchange Bank of Baltimore, are all
6 banking associations chartered and authorized under and by virtue of the act of Congress entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3rd, 1864.

That by the 29th section of said act it is provided, that the total liabilities to any association of any one person, corporation, company or firm, for money borrowed, including in *in* a company or firm the liabilities of the several members thereof, shall not at any time exceed one-tenth part of the capital stock of such association actually paid in, provided, however, that the discount of bona fide bills of exchange, drawn against actually existing values, or the discount of commercial notes or business paper, actually owned by the party or person negotiating the same, shall not be regarded as money borrowed.

That the capital stock of the said National Mechanics' Bank of Baltimore, as your orator is informed and believes, is about $600,000 00; that the capital stock of the said National Union Bank of Maryland is about $1,200,000 00, and that the capital stock of the said National Exchange
7 Bank of Baltimore is about $400,000 00, and that such were the capital stock of said banks, respectively, in and about the year 1866. The largest amount the said National Mechanics' Bank could loan to any one person, corporation, company or firm, was the sum of $60,000 00; that the largest amount the said National Union Bank of Maryland could so loan was the sum of $120,000 00; and that largest amount which the said National Exchange Bank could so loan was $40,000 00; and that any larger amount loaned or advanced to any one person, corporation, company or firm, than the said amounts of ten per cent. of the capital stock, is null and void, and creates no rights in the said banks, nor legal liability on the part of the borrower.

And your orator further states that the said firm of Bayne & Co. were bankers and stock brokers in the city of Baltimore as aforesaid, and were engaged in speculating in stock, gold, and bonds on account of themselves and their customers, on what is called margins, that is, by paying but a small margin of ten or twenty per cent. on the stock, gold, or bonds so bought and sold, and creating a debt or obligation for the remaining, and much the larger, part of such purchases and sales of such stocks, bonds and gold, involving the most hazardous risks and ventures in such gambling operations.

That by such means the said Bayne & Co. used and absorbed large sums, besides the amount of partnership capital invested, of
8 money, stocks, and securities deposited with them by their customers, and large and extraordinary sums loaned and advanced to them by the said banks. That the said sums of money so loaned and advanced to said Bayne & Co., by said banks, were to a much larger amount than ten per cent. of their respective paid-in capital, and in excess of the limit allowed by law, and in absolute violation of the prohibition imposed by the said 29th section of said banking law on said banks, as national banking associations.

That the said National Mechanics' Bank of Baltimore, whose capital was $600,000 00, and could therefore loan to said Bayne & Co. at any one time the sum of $60,000 00, and no more, loaned and advanced to said Bayne & Co., at one time, as your orator is informed and believes, about the sum of $600,000 00, or a sum equal to its entire capital stock.

That the said National Exchange Bank, whose capital stock was

$400,000 00, and could therefore loan to any one person, corporation company, or firm, the sum of $40,000 00, and no more, loaned and advanced at one time to said Bayne & Co. the sum of $300,000 00, and upwards.

That the said National Union Bank of Maryland, whose capital stock is about $1,200,000 00, and hence could not lawfully loan to any one person, corporation, company or firm, more than the sum of $120,000 00, loaned and advanced to said Bayne & Co. a sum of about $500,000 00, at one time.

9 That after deducting all previous payments made by said Bayne & Co. to said National Exchange Bank of Baltimore, there was still a debt of about $140,431 29 due to said bank from said Bayne & Co., on or about the 3rd day of May, 1866.

And that, after deducting all payments made to the said National Union Bank of Maryland by said Bayne & Co., there was a balance due to said bank from said Bayne & Co. of about $287,641 31, on or about the 3d day of May, 1866.

And that, after deducting all previous payments made to the said National Mechanics' Bank of Baltimore, there was a balance due to said bank from said Bayne & Co. of $377,444 17, on or about the 3rd day of May, 1866.

And your orator states and charges, that the money so loaned and advanced to said Bayne & Co., by said banks, or either of them, was loaned not upon bills of exchange, drawn against actually existing values, or in the discount of notes or business paper owned by said Bayne & Co., according to the reservations and proviso contained in the 29th section of said national banking law; but that the same, and every part thereof, was loaned or advanced to enable said Bayne & Co. to conduct, continue and increase desperate and hazardous adventures and speculations in the purchase and sale of stocks, bonds, and gold in the cities of Baltimore and New York, which was not only well known

10 to the officers and agents of said banks, but your orator states and charges the fact to be, that some of the principal officers and agents of said banks were personally interested in the purchases and sales of stocks, bonds, and gold, by said Bayne & Co.

That by such operations, hazards, and adventures in stock gambling, the said Bayne & Co. failed, and became wholly insolvent, on or about the 3rd day of May, 1866; at and before which time they were indebted to your orator personally and to his assigns, in or about the amounts hereinbefore stated, besides a large amount of debts to other persons, whose money, capital and securities had been improperly used by the said Bayne & Co.

That upon such insolvency, the said Bayne & Co., made a general assignment to the defendant William Bayne and to Charles W. Boteler, and Oscar King, as trustees of the whole of their, said Bayne & Co., goods, chattels, estate, and effects, for the special and general purpose therein. That the said Boteler and King declined or refused to act, when by some order or proceedings in court the defendants, Allen A. Chapman and Horatio R. Riddle, were joined with said William Bayne to perform the duties provided in said trust assignment, a copy of which is made part hereof, marked Exhibit S, No. 8.

That said Bayne & Co. in their said assignment exhibited no

11 assets or property, though they made a first and second class of preferred creditors; that is to say, they made a first class of preferred creditors to the amount of about $75,000 00, and a second

class to the amount of about $150,000 00, and the remainder of their assets to be apportioned among their general creditors.

That the said sum of $75,000 00, or thereabouts, for the creditors first preferred, your orator is informed and believes, has been collected and realized, and is now a fund in the hands of said trustees. And that a portion of the fund applicable to the second preferred creditors, as provided in said trust, has also been collected and is now in the hands of said trustees; but your orator has no knowledge what was the character or description of the assets, property, or effects, or choses in action, out of which the said sums of money were collected by said trustees; or what, if any, assets, property, or effects still remain in the hands of said trustees to be collected or converted into money; nor does your orator know what amount of money has been collected by said trustees except that he is informed that the sum exceeds the amount due to the first preferred creditors.

But your orator states and charges the fact to be, that much the larger portion of the assets, colaterals, and securities held by said Bayne & Co. are pledged with and held by the defendants, the National
12 Union Bank of Maryland, the National Mechanics' Bank of Baltimore, and the National Exchange Bank of Baltimore, being placed and pledged with said banks for said illegal and void loans and advances of money to said Bayne & Co. as aforesaid.

That of the amount of such securities so held the said National Exchange Bank, whose present pretended debt is about $140,431 29, holds in pledge and has in possession securities and colaterals received from said Bayne & Co. to the amount of $164,250 00.

That the said National Union Bank, whose present pretended debt is about $287,641 31, has assets, colaterals, and securities received from said Bayne & Co. to the amount of $300,139 00.

That the said National Mechanics' Bank, whose present pretended debt is $377,444 17, holds colaterals, assets, and securities from said Bayne & Co. to the amount of $385,864 00. The whole of assets, colaterals, and securities so held and received from said Bayne & Co. by said three banks amounts to the sum and value of about $850,253 00.

And your orator states and charges that said assets, colaterals, and securities, when first received from said Bayne & Co. by said banks, were of a much greater value than the valuation and amounts above stated, but that the same were held tied up and permitted to de-
13 preciate and waste by the neglect and failure of said banks to convert the same into money at the maturity of their respective pretended debts; by virtue of which neglect and failure the said banks are legally and equitably chargeable with such waste and depreciation of the same, as will be hereinafter prayed.

And your orator further states that the defendant, Lawrence P. Bayne, of the said firm of Bayne & Co., on or about the 30th day of May, 1868, filed his petition before this honorable court for the benefit of the bankrupt law, as hereinbefore stated, and on or about the 8th day of July thereafter was duly adjudged a bankrupt. That while the said L. P. Bayne exhibited a large number of debts and creditors, and among them your orator and his assignor, the said Huyck as aforesaid, he exhibited no assets as belonging to himself or his said firm of Bayne & Co.; but he did, in his "Schedule A 2," show and exhibit assets, colaterals, and securities as aforesaid, as held by said banks to the amount of $850,253 00, or thereabouts, as will more fully appear by a copy of said "Schedule A 2," made part hereof, marked Exhibit S, No. 9.

Your orator further states and charges that the said banks, with a

full knowledge of the application and petition in bankruptcy of said Lawrence P. Bayne, and with the view to avoid appearing before a register in bankruptcy, where their said respective pretended
14 debts and demands against said Bayne & Co. could be challenged and contested by your orator and other creditors as to the legality and validity of the same, under and by virtue of the said national bankrupt law, and be examined into the items, dates, and amounts thereof, and also be required to make an exhibition of the amounts loaned at any one time, so as to test the legality of the same, and where said banks could be required to show what amounts had been paid back to them on said illegal loans by said Bayne & Co., and otherwise to conceal their said dealings as national banking associations with said Bayne & Co.—that the said banks did, on or about the 23rd day of June, 1868, enter into a fraudulent agreement and contract with the said William Bayne, Allen A. Chapman, and Horatio R. Riddle, trustees of said Bayne & Co., whereby the said trustees, for a consideration of one hundred dollars paid to them by each of said banks, assigned, sold, and set over all the securities, assets, and colaterals held by said banks, belonging to or received from said Bayne & Co., and all and singular the said equity of redemption of, and reversionary interest in, the same on the part of said Bayne & Co.; which bills of sale were duly signed by the defendants, "H. R. Riddle, William Bayne, Allen A. Chapman, trustees of Bayne & Co.," and being duly stamped with U. S. revenue stamps, were delivered to each of said banks, as will more fully appear by a copy of said
15 agreement of sale delivered to the said National Union Bank of Maryland, made part hereof, marked Exhibit S, No. 10.

That a similar instrument for the same purpose was delivered to, and accepted by, the said National Exchange Bank and the said National Mechanics' Bank, as your orator is informed and believes, and so charges to be true.

Your orator further states that said agreement of sale, so executed and delivered to each of said banks by the said trustees of Bayne & Co., did not prove satisfactory to said L. P. Bayne and his solicitor in bankruptcy, who declined upon such a paper to agree to waive the submitting for examination the said pretended indebtedness to said banks, and the property and assets by them held as aforesaid, to the register and assignee in bankruptcy, and so notified the said banks.

That the said banks then, and on or about the 6th day of July, 1868, executed a joint and several release in full to said Lawrence P. Bayne, of the said firm of Bayne & Co., for a consideration of one hundred dollars paid to each of said banks by the trustees of said Bayne & Co., but which said release was falsely and fraudulently dated on the same 23rd day of June, 1868, that the said fraudulent agreement of sale was dated, when in fact the said release was really executed on the 6th day of July, just two days before the said Lawrence P. Bayne was adjudged a bankrupt. Your orator files and exhibits herewith a copy of
16 said release marked Exhibit S, No. 11.

And your orator states and charges that the executing of said release to said Lawrence P. Bayne, the consideration for which was paid by the trustees of Bayne & Co., was and is an absolute release of all the parties and joint obligors, and hence a release at law and in equity to said firm of Bayne & Co.; and that the release of said indebtednesses, whether they be legal or illegal and void for the reasons hereinafter stated, is a full and complete release of all the stocks, bonds, and colaterals held as security or in pledge for the same; and that the

whole of said stocks, securities, and colaterals held by said banks, or either of them, are assets belonging to said Bayne & Co., so far as they had a right to pledge or use the same, and are properly subject to the payment of the debt and demands of your orator and other creditors of said Bayne & Co.

And your orator further states and charges that as the said sum of ten per cent. of the paid-in capital stock of said banks, respectively, is all and the largest amount that said Bayne & Co. could be indebted to said banks; and such being the legal limits of the rights of said banks, respectively, for any liability against said Bayne & Co., that said
17 Bayne & Co. could not lawfully or properly pay to said banks, or either of them, a larger debt than said ten per cent.; and that the payment of more than such sum in any one transaction or transactions where the amount borrowed or advanced and liability created was more than said ten per cent., was and is money paid to, and received by, said banks contrary to law, and is a fraud upon the rights of your orator and other creditors of said Bayne & Co., who had no lawful right to pay, or the said banks to receive, said illegal and over-payments, until your orator and the other creditors shall have received and been paid their just dues. That the money so paid to said banks was derived from your orator and his assignor, or from the proceeds of securities belonging to him or them, or from money and securities deposited with said Bayne & Co., which were fraudulently and illegally paid to, or pledged with, said banks for or on account of said illegal loans and advances of money and credits to said Bayne & Co. by said banks, and which your orator charges are held in trust as money had and received by said banks to the use of your orator and other creditors of said Bayne & Co., to the full extent of his and their respective debts.

And your orator states and charges, upon information and belief, that the amount of money so paid by said Bayne & Co. to said banks, over and above the amount of ten per cent., the legal limit of their
18 liability, amounts to more than the sum of $2,300,000 00, for which money so illegally paid to, and received by, said banks, respectively, your orator insists and demands shall be accounted for in such manner as this honorable court may adjudge legal and proper, as hereinafter prayed.

And your orator further states that the said excessive and illegal sums of money so loaned were used, and within the knowledge of said banks were designed and loaned to be used, by said Bayne & Co. in speculations and adventures in stock-jobbing, and hazardous schemes of speculations; and that several of the principal stockholders, directors, and officers of said respective banks kept in their own name, or in the names of others, or in blank, speculative accounts with said Lawrence P. Bayne, or Bayne & Co., either in Baltimore or New York, or both, and thereby encouraged and countenanced said Bayne & Co. in such illegitimate and hazardous adventures, whereby the said Bayne & Co. became insolvent. And they, the said directors, officers, and stockholders of said banks have, therefore, incurred the forfeitures, liabilities, and penalties imposed upon national banking associations in the 53rd section of the aforesaid national currency act.

And your orator states and charges, that the said William Bayne, Allen A. Chapman, and Horatio R. Riddle, the trustees of said
19 Bayne & Co., are not proper and competent persons to handle the money, assets, and effects of said Bayne & Co.; that from their personal relations and associations they are operating and acting in a

way to destroy the rights of your orator and other creditors of said Bayne & Co. That said William Bayne is a brother of said Lawrence P. Bayne, of the firm of Bayne & Co., and that he, as president of the Merchants' National Bank of Washington, loaned and advanced large and illegal sums of money to said Bayne & Co., whereby said Merchants' National Bank of Washington was rendered insolvent, and was subsequently forced to go into liquidation, and is now in the hands of a receiver.

That said Allen A. Chapman was, and is, as your orator is informed and believes, a director of the said National Union Bank of Maryland, which made such large and illegal advances of money to said Bayne & Co.; and that the said Horatio R. Riddle was cashier, or held some other office in the said National Exchange Bank of Baltimore, which likewise made such excessive and illegal advances of money to said Bayne & Co., as aforesaid.

That both said Chapman and Riddle, while acting as directors and officers of said banks, respectively, were engaged, from time to time, and repeatedly, in stock speculations and adventures, with or through said firm of Bayne & Co., and are, therefore, more or less interested in
20 and for said banks, and are adverse in feeling and sympathy to the interests of your orator and other creditors of said Bayne & Co., and are partially and improperly handling the assets, money, and property placed in their hands as trustees of said Bayne & Co.

And your orator specially states and charges, that the attempted sale and surrender of the assets, stocks, and colaterals held by said banks from said Bayne & Co., as aforesaid, by said William Bayne, Allen A. Chapman, and Horatio R. Riddle, on the 23rd day of June, 1868, after said Lawrence P. Bayne had declared himself a bankrupt, by applying for the benefit of the bankrupt law, as aforesaid, and had shown in his schedule some $45,000 00 surplus assets in the hands of said banks over and above the full amount of the pretended debts of said banks against said Bayne & Co., for a consideration of one hundred dollars, paid by each of said banks to said trustees, was a wilfull and direct act of fraud and attempt to favor said banks, in disregard of the known rights of your orator and other creditors of said Bayne & Co., whose rights were known to said trustees by the schedule of creditors, exhibited by said L. P. Bayne in his application for the benefit of the bankrupt law; and that, therefore, said trustees should not be allowed further to control the assets and effects of Bayne & Co.

21 Wherefore your orator prays that the United States writ of subpœna may issue, requiring each and all of the said defendants to appear, and upon their corporal oaths to answer all and singular the allegations of this bill of complaint.

And your orator prays, that the said National Union Bank of Maryland, and the National Mechanics' Bank of Baltimore, and the National Exchange Bank of Baltimore, may each upon the oaths of their proper officers, in addition to answering all and singular the allegations, statements, and charges in this bill, set forth and exhibit for the inspection of your orator, and the information of this honorable court, a truthful and perfect statement of the dealings of each of said banks, separately and respectively, and all and several the amounts of money loaned or advanced by said banks respectively to said Bayne & Co., and to said Lawrence P. Bayne, personally; that said statement shall show the full amount of each sum loaned and the date thereof, upon what security and colateral, and whether by written or verbal stipulation, and exhibit

a copy of any and all correspondence, notes, checks, or written memorandum or agreements, that exist or are held, paid or unpaid, and the date or dates of all of said loans and advances so made to said Bayne & Co.

And that said banks, and each of them respectively, shall likewise exhibit and show in their said respective accounts so to be rendered, upon the corporal oaths of their proper officers, a full, true, and perfect account of all and several the amounts of money paid back to said banks, or either of them, by said Bayne & Co., or said Lawrence P. Bayne, for and on account of the several loans of money so made to them or him by said banks, or either of them; stating the amount or amounts paid, the date of the payment, and how and in what manner the same was credited to said Bayne & Co., or said Lawrence P. Bayne, so that the credits and charges shall show the precise amount loaned and advanced, and paid back, at any and all times from the commencement of said respective accounts to the date of the last payment, and the balance now alleged to be unpaid; and shall also state the amount of interest or discount charged to, and received from, said Bayne & Co., or premiums, if any, on said loans and advances of money.

22

And your orator further prays, that said banks, and each of them, shall also exhibit a true and perfect account of all and singular the colaterals, assets, and securities had and received from said Bayne & Co., or said L. P. Bayne; whether said banks, or either of them, have sold, pledged, used, transferred, or delivered, any of the colaterals and securities so held and received from said Bayne & Co., or said L. P. Bayne, or have made any contracts or agreements to that effect with any person connected with said banks, or either of them; and if so, state to whom, when, upon what terms, and for what consideration, and exhibit any and all agreements, stipulations, correspondence, or contracts to that effect.

23

And your orator further prays, that said Lawrence P. Bayne, John Honeywell, and William T. Hough, may each, upon his corporal oath, state and exhibit a true and perfect account of any and all money borrowed by the said firm of Bayne & Co., and by the said L. P. Bayne, personally, from the said National Mechanics' Bank of Baltimore, the National Exchange Bank of Baltimore, and the National Union Bank of Maryland; and shall also state upon what colaterals, securities, or guarantees, if any, upon which the said money was borrowed, and exhibit any and all writings, contracts, agreements, or correspondence used or adopted in and about said loans; and that they shall also exhibit a true and perfect statement of any and all sums paid back to said banks, or either of them, by said firm of Bayne & Co., or said L. P. Bayne, and the dates of such payments; and shall also state the amount of interest or discount allowed and paid for and on account of all such loans from said banks, or either of them.

24

And your orator further prays, that said Bayne, Honeywell, and Hough, as said firm of Bayne & Co., and said Lawrence P. Bayne, personally, shall state whether any officer, director, or stockholder of said banks, or either of them, had or kept any account or accounts, or give any order or orders through said firm of Bayne & Co., or by or through said L. P. Bayne, personally, for the purchase or sale of any stocks, bonds, or gold; and if so, state the amount and the name or names of the officer, director, or stockholder so giving said order, and the amount of capital, money, or deposit that was put as margin for such purchases and sales, and shall state how such accounts, if any, were

kept, whether in the proper name or names of such parties or in blank, and the amount of profits and losses, if any, that were made or sustained in such transactions, and when, in what way the same was paid to the directors, officers, or stockholders of said banks as aforesaid.

And your orator further prays, that said William Bayne, Allen A. Chapman, and Horatio R. Riddle, trustees of said Bayne & Co., may state, upon their corporal oaths and each for himself, what amount of assets, notes, bonds, obligations, or bills payable, real estate, or property was received by them, or either of them, from said firm of Bayne & Co., what was the amount and value thereof, and exhibit a schedule
25 or inventory of the same; and shall state what amount they have collected, what amount of assets, property, or securities sold, to whom and for what price, and what amount, if any, they still have in hand and unsold; and shall state the amount of money in hand and how and what way the same is invested or secured.

And your orator prays that said trustees, the said William Bayne, Allen A. Chapman, and Horatio R. Riddle, shall be restrained and enjoined from any further handling or management of the goods, assets, estate, and chattels of said Bayne & Co., under and by virtue of said assignment in trust as aforesaid; and that after appropriating the amount collected and held for the first preferred creditors, as in said assignment provided, and which amount your orator does not seek to control, that any and all surplus, and all the remaining assets of the said Bayne & Co., shall be surrendered to the charge of such person as may be appointed by this honorable court to act as receiver or assignee in bankruptcy, upon such further proceedings as shall be had in the bankruptcy proceedings on the part of said Lawrence P. Bayne before this honorable court, and that all proper orders may be granted to your orator in that behalf.

And your orator prays that all and singular the assets, stocks,
26 and securities held by said banks, or either of them, belonging to said Bayne & Co., may, by the proper order of this honorable court, be placed under the charge of an assignee in bankruptcy, in the proceedings now pending before this honorable court on the part of said Bayne in that behalf; and that after the true statement of the amount of all payments that were illegal, or payments over and above the amount of the ten per cent. allowed by the said national banking law to the said banks, or either of them, by the said Bayne & Co., shall be ascertained and exhibited in the accounting herein prayed and called for, that all sum or sums of money so illegally paid to or received by said banks, or either of them, over and above the said sum of ten per cent., shall be paid over to the register in bankruptcy of this honorable court, or to such assignee as may be elected by your orator and other creditors of said Bayne, to such extent as will discharge the claim or claims that may be lawfully established by your orator and other creditors of said firm of Bayne & Co., under said proceedings in bankruptcy.

And your orator prays that pending the hearing and determination of this cause, the register in bankruptcy of this honorable court may be directed and empowered to receive from said banks and each of
27 them, all the assets, stocks, and securities so held by them, or either of them, from said Bayne & Co., and that this honorable court may make all needful orders in that behalf.

And that your orator may have a proper decree for the several sums of money herein pledged as due from said Bayne & Co., or for such judgments as he may obtain in the courts wherein said causes of demand

are being, or may hereafter be, litigated, or adjudged to be due your orator by the final decree of this honorable court.

And that your orator may have a decree for all proper, general, and special relief, as your orator will ever pray.

A. B. MAGRUDER,
GILES & HANAN,
Sol's for Compl't.

UNITED STATES OF AMERICA,
District of Maryland:

Joseph B. Stewart, being sworn, says, that he is complainant in the above entitled cause; that the matter and things therein stated, within his own knowledge, are true, and the matters and things stated from information derived from others he believes to be true.

J. B. STEWART.

Subscribed and sworn to before me this 9th day of Oct., 1868.
ISSAC BROOKS, JR.,
U. S. Com'r for the District of Maryland.

28 EXHIBIT S, No. 1.

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye that we, having examined the records and files in the office of the clerk of the county of New York, and clerk of the supreme court (NEW YORK) of said State for said county, do find a certain judgment (SEAL.) roll there remaining, in the words and figures following, to wit:

N. Y. supreme court, city and county of New York.

WILLIAM H. JACKSON, RICHARD K. JACKSON, Hugh B. Jackson, plaintiffs, *against* JOSEPH B. STEWART, DEFENDANT. } Summons for money demand on contract.

[Fifty cents (50) U. S. Int. Rev. stamp; (50) mortgage.]

To the above-named defendant:

You are hereby summoned and required to answer the complaint of the plaintiffs in this action, a copy of which is hereto annexed, and to serve a copy of your answer on us, at our office, number 20 Nassau st., in the city of New York, within twenty days after the service of this summons upon you, exclusive of the day of such summons; and
29 if you fail to answer said complaint as hereby required, the plaintiffs in this action will take judgment against you for eighteen hundred and one dollars and forty cents, with interest on the same from the 12th day of May, 1866, besides the costs of this action.

JACKSON & TITUS,
Plaintiffs' Attorney, 20 Nassau St., N. York.

Dated New York, Dec. 7th, 1866.

CITY AND COUNTY OF NEW YORK, *ss:*

Robert Jackson, of said city, being duly sworn, deposes and says, that on the 14th day of December, 1866, at the said city of New York,

he served the within summons, together with a copy of the complaint therein mentioned, on the defendant, Joseph B. Stewart, by delivering to and leaving with him a true copy thereof; and he further says that he knows the person so by him served to be the same person mentioned and described in the said summons as the defendant therein.

ROBT JACKSON.

Sworn to before me this 10th day of Jan., 1867.

FRANK S. WINCHESTER,
Commissioner of Deeds.

N. Y. supreme court, city and county of New York.

30 WILLIAM H. JACKSON, RICHARD K. JACKSON, & HUGH B. Jackson, *ag'st* JOSEPH B. STEWART.

The complaint of the plaintiffs shows to this court:

1st. That at the times hereinafter mentioned they were copartners, doing business in the city of New York under the firm-name of William H. Jackson & Co.

2nd. That on the 16th day of April, 1866, at the city of Baltimore, Md., the defendant, by his bill of exchange dated on that day, required Messrs. J. P. Bayne & Co., of Baltimore, to pay to the order of himself eighteen hundred dollars twenty days after sight.

3rd. That on or about the 16th day of April, 1866, the defendant endorsed the same in blank, and delivered it to these plaintiffs for a valuable consideration, who are now the owners and holders thereof.

4th. That the same was presented to J. P. Bayne & Co. for acceptance, and was by them accepted.

5th. That on the 12th day of May, 1866, the said draft was presented to J. P. Bayne & Co. for payment, and payment thereof demanded, which was refused, and that the defendant had due notice thereof, and that the same has not been paid, nor any part thereof.

31 Wherefore these plaintiffs demand judgment against this defendant in the sum of eighteen hundred dollars, together with ($1 40) one dollar and forty cents expense of protest, with interest from the 12th day of May, 1866, besides the costs of this action.

JACKSON & TITUS,
Pl'ffs' Att'ys, 20 Nassau st., New York.

CITY AND COUNTY OF NEW YORK, *ss:*

William H. Jackson, being duly sworn, says that he is one of the plaintiffs herein; that he has read the foregoing complaint, and that the same is true of his own knowledge, except as to the matters therein stated upon information and belief, and as to those matters he believes it to be true.

WM. H. JACKSON.

Sworn to before me this 6th day of Dec., 1866.

FRANK S. WINCHESTER,
Commissioner of Deeds.

N. Y. supreme court, city and county of New York.

WILLIAM H. JACKSON, RICHARD K. JACKSON, and Hugh B. Jackson *against* JOSEPH B. STEWART. } Copy of the judgment.

32 The summons, with a copy of the complaint in this action, having been duly served on Joseph B. Stewart, the defendant, on the fourteenth day of December, 1866, and no copy of an answer or demurrer to the complaint having been served on the plaintiffs' attorneys as required by the summons: Now, on motion of Jackson and Titus, plaintiffs' attorneys, it is hereby adjudged that William H. Jackson, Richard K. Jackson, and Hugh B. Jackson, the plaintiffs, recover of Joseph B. Stewart, the defendant, the sum of eighteen hundred and eighty-four and $\frac{70}{100}$ dollars, the amount claimed and interest, with seventeen and $\frac{81}{100}$ dollars costs and disbursements, amounting, in the whole, to nineteen hundred and two & $\frac{51}{100}$ dollars, and that the said plaintiffs have execution therefor.

Statement for judgment and costs.

Amount claimed in summons		1,801 40
Interest, (7 mo's & 28 d'ys)		83 30
		$1,884 70
Costs by statute	$15	
Clerk entering judgment	1	
Affidavits	25	
Transcript and filing	12	
Sheriff's fees	69	
Satisfaction piece	25	
U. S. rev. stamp	50	
		17 81
		$1,902 51

33 CITY AND COUNTY OF NEW YORK, *ss:*

Robert Jackson, one of plaintiffs' attorneys in the above action, being duly sworn, says that the disbursements above mentioned have been made in this action, or will be necessarily made or incurred therein, as he verily believes; and he further says the time to answer or demur on the 8th inst., and that no copy of an answer or demurrer to the complaint in this action has been received.

ROB'T JACKSON.

Sworn to before me this 10th day of January, 1867.

FRANK S. WINCHESTER,
Commissioner of Deeds.

(Endorsed:) Filed January 10, 1867, at 2 o'clock 44m.

All of which we have caused by these presents to be exemplified, and the seal of our said supreme court to be hereunto affixed.

Witness, Albert Cardoza, justice at the city of New York, the 14th day of March, in the year of our Lord one thousand eight hundred and sixty-eight, and of our independence the ninety-second.

CHA'S E. LOEW, *Clerk.*

I, Albert Cardoza, presiding justice of the supreme court of the
34 State of New York, do hereby certify that Charles E. Loew, whose name is subscribed to the preceding exemplification, is the clerk of the said county of New York and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said supreme court, and that the attestation thereof is in due form.

Dated New York, M'ch 14th, 1868.

ALBERT CARDOZA,
Justice N. Y. Supreme Court, Presiding.

STATE OF NEW YORK,
City and County of New York, ss:

{ NEW YORK } I, Charles E. Loew, clerk of the supreme court of said
{ SEAL. } State, in and for the city and county of New York, do hereby certify that Albert Cardoza, whose name is subscribed to the preceding certificate, is presiding justice of the supreme court of said State, in and for the city and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

In testimony whereof I have hereto set may hand and affixed the seal of said court this 14th day of M'ch, 1866.

CHA'S E. LOEW, *Clerk.*

35 EXHIBIT S, No. 2.

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye that we, having examined the records and files in the office of the clerk of the county of New York, and clerk of the supreme court
{ NEW YORK } of said State for said county, do find a certain judg-
{ SEAL. } ment-roll there remaining, in the words and figures following, to wit:

Supreme court, city and county of New York.

VICTOR BISHOP AND PHILIP REIN, PLAINTIFFS, *against* LAWRENCE P. BAYNE, WILLIAM T. HUFF, AND John Humnivill, defendants.	Summons for a money demand on contract.

To the above-named defendants:

You are hereby summoned and required to answer the complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber, at his office, No. 34 Pine st., in the city of New York, within twenty days after the service hereof, exclusive of the day of such service, and if
36 you fail to answer the said complaint within the time aforesaid, the plaintiff in this action will take judgment against you for the sum of one thousand and two dollars and twenty-eight cents, with interest from the eighth day of May, one thousand eight hundred and sixty-six, besides the costs of this action.

Dated March 27th, 1867.

GEO. W. VAN SLYCK,
Plaintiffs' Attorney, 34 Pine st., N. Y. City.

Supreme court, city and county of New York.

VICTOR BISHOP AND PHILLIP REIN, PL'FFS,
ag'st
LAWRENCE P. BAYNE, WILLIAM T. HUFF, and John Hunnwill, def'ts.

The plaintiffs above named, appearing by George W. Van Slyck, their attorney, complain of the defendants and allege,

I. That at the times and dates hereinafter mentioned the plaintiffs were copartners, doing business in the city of New York under the firm name of Bishop and Rein; that at the same times and dates hereinafter mentioned the defendants were copartners, doing business in the city of Baltimore, Md., under the firm name of L. P. Bayne & Co.

37 II. That on the 16th day of April, at New York City, one Joseph B. Stewart made his draft or bill of exchange in writing, drawn on that day, directed to the defendants under the firm name of L. P. Bayne & Co., and thereby required the defendants to pay to his order the sum of one thousand dollars, fifteen days after sight thereof, for value received, and indorsed the said bill, or to these plaintiffs for value

III. That on the 20th day of April, 1866, at Baltimore, Maryland, the defendants, under said firm name, upon sight thereof, duly accepted said bill or draft.

IV. That at maturity the same was duly presented to said defendants for payment, but was not paid, and was thereupon duly protested for non-payment; that the same has not been paid, nor any part thereof, and the defendants are now justly indebted to these plaintiffs therein in the sum of one thousand dollars, besides costs of protests and interest.

Wherefore the plaintiffs demand judgment against the defendants in the sum of one thousand dollars, with interest thereon from the 8th day of May, 1866, together with ($2 28) two dollars twenty-eight cents expense of protest, besides the costs of this action.

GEO. W. VAN SLYCK,
Att'y for Pl'ffs, 34 *Pine st., N. Y. City.*

38 CITY AND COUNTY OF NEW YORK, *ss:*

George W. Van Slyck, being duly sworn, says that he is the attorney for the plaintiffs in this action; that the foregoing complaint is true, to his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

Deponent further says that the reason why the is not made by the plaintiffs is, that this action is founded upon a written instrument for the payment of money only, and said instrument is in the possession of deponent, and that his knowledge is derived from said instrument, and also from the admissions of the plaintiffs to this deponent.

GEO. W. VAN SLYCK.

Sworn to before me this 27th day of March, 1867.

H. A. GILDERSLEEVE,
Notary Public.

Supreme court, city and county of New York.

VICTOR BISHOP AND PHILLIP REIN *ag'st* LAWRENCE P. BAYNE, WILLIAM T. HUFF, and John Hunniwell.

CITY AND COUNTY OF NEW YORK, *ss:*

George W. Van Slyck, being duly sworn, that he served the within summons and complaint on one of the defendants, Lawrence P. Bayne, by delivering to and leaving with him personally a copy of the same at No. 52 Broad st., in the city of New York, on the 28th day of March, 1867, and that he knows the person so served to be the one mentioned and described in the summons and complaint as one of the defendants therein.

GEO. W. VAN SLYCK.

Sworn to before me this 12th day of June, 1867.

E. HENRY LACOMBE,
Notary Public, Co. of N. Y.

Supreme court, city and county of New York.

VICTOR BISHOP AND PHILLIP REIN *against* LAWRENCE P. BAYNE, WILLIAM T. HUFF, and John Hunniwell. } Copy of the judgment.

The summons, with a copy of the complaint in this action, having been duly served on Lawrence P. Bayne, one of the defendants, on the 28th day of March, 1867, and no copy of an answer or demurrer to the complaint having been served on the plaintiffs' attorney, as required by the summons, now, on motion of Geo. W. Van Slyck, plaintiffs' attorney, it is hereby adjudged that Victor Bishop and Phillip Rein, the plaintiffs, recover of Lawrence P. Bayne, William T. Huff, and John Hunniwell, the defendants, the sum of one thousand and seventy-eight $\frac{11}{100}$ dollars, the amount claimed with interest, with seventeen $\frac{18}{100}$ dollars costs and disbursements, amounting in the whole to one thousand and ninety-five $\frac{29}{100}$ dollars, and that the said plaintiffs have execution therefor.

Statement for judgment and costs.

Amount claimed in summons		1,002 28
Interest		75 83
		$1,078 11
Costs by statute	15	
Clerk entering judgment	1	
Affidavits	12	
Transcript & filing	12	
Sheriff's fees on execution	69	
Satisfaction piece	25	17 18
		$1,095 29

CITY AND COUNTY OF NEW YORK:

George W. Van Slyck, plaintiffs' attorney in the above action, being duly sworn, says that the disbursements above mentioned have been

made in this action, or will be necessarily made or incurred therein, as he verily believes; and he further says that no copy of an answer
41 or demurrer to the complaint in this action has been received.

GEO. W. VAN SLYCK.

Sworn to before me this 13th of June, 1867.

E. HENRY LACOMBE,
Notary Public, Co. of N. Y.

All which we have caused, by these presents, to be exemplified, and the seal of our said supreme court to be hereunto affixed.

Witness Albert Cardoza, justice, at the city of New York, the 14th day of March, in the year of our Lord one thousand eight hundred and sixty-eight, and of our independence the ninety-second.

CHAS. E. LOEW, *Clerk.*

I, Albert Cardoza, presiding justice of the supreme court of the State of New York for the city and county of New York, do hereby certify that Charles E. Loew, whose name is subscribed to the preceding exemplification, is the clerk of the said county of New York and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said su-
42 preme court, and that the attestation thereof is in due form.

Dated New York, March 14th, 1868.

ALBERT CARDOZA,
Justice N. Y. Supreme C't, Presiding.

STATE OF NEW YORK,
City and County of New York, ss:

I, Charles E. Loew, clerk of the supreme court of said State in and for the city and county of New York, do hereby certify that Albert Cardoza, whose name is subscribed to the preceding certificate, is presiding justice of the supreme court of said State in and for the city and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

In testimony whereof I have set my hand and affixed the seal of the said court this 14th day of March, 1868.

CHAS. E. LOEW, *Clerk*

{ NEW YORK SEAL. }

EXHIBIT S, No. 3.

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

43 Know ye, that we, having examined the records and files in the office of the clerk of the county of New York, and clerk of the supreme court of said State for said county, do find a certain judgment-roll there remaining, in the words and figures following, to wit:

JOSEPH B. STEWART, PLAINTIFF, *against* LEONARD HUYCK, DEFENDANT. } Affidavit of service of summons and complaint.

CITY AND COUNTY OF NEW YORK, *ss:*

Albert C. Aubery, being duly sworn, says, that on the 7th day of Jan'y, 1867, at the Howard House, No. 176 Broadway, New York City,

he served a copy of the annexed summons, together with a copy of the complaint therein mentioned, of which a copy is also hereunto annexed, on Leonard Huyck, defendant in this action, by delivering the same to such defendant personally, and leaving the same with him. He further says that he knew the person served as aforesaid to be the person mentioned and described in said summons as the defendant in this action.

ALBERT C. AUBERY.

Sworn to before me, this 7th day of January, 1867.

JAMES C. CLOYD,
Notary Public, N. Y. City.

44 N. Y. supreme court, city and county of New York.

JOSEPH B. STEWART *against* LEONARD HUYCK. } Summons for a money demand on contract. (Complaint served.)

[U. S. int. rev. stamp, 50-cent., cancelled.]

To the above named defendant:

You are hereby summoned and required to answer the complaint in this action, of which a copy is herewith served upon you, and serve a copy of your answer on the subscribers, at their office, No. 170 Broadway, New York City, within twenty days after the service hereof, exclusive of the day of such service, and if you fail to answer the complaint as aforesaid, the plaintiff will take judgment against you for the sum of one hundred and seventy-six thousand and nine hundred dollars, with interest from the 20th day of December, one thousand eight hundred and sixty-six, besides the costs and disbursements of this action.

Dated January 5th, 1867.

BIRDSEYE & CROSBY,
Plaintiff's Attorney, 170 *Broadway.*

NEW YORK SUPREME COURT,
City and county of New York:

45 JOSEPH B. STEWART *vs.* LEONARD HUYCK. }

Joseph B. Stewart, plaintiff in this action, by Birdseye and Crosby, his attorneys, complains of Leonard Huyck, defendant therein, and for cause of action alleges:

First. That prior to the 20th day of December, A. D., 1866, the plaintiff and defendant had divers and sundry business dealings and accounts with each other, involving a large amount of money, and that on the said 20th day of December, A. D. 1866, at the city and State of New York, an account of such business dealings and transactions was duly had and stated between the plaintiff and defendant, and upon such statement a balance of one hundred and seventy-six thousand and nine hundred dollars was found to be due from said defendant to this plaintiff.

Second. That the defendant then and there promised to pay said sum above mentioned to the plaintiff; that no part thereof has been paid. Wherefore the said plaintiff demands judgment against the said defendant for the sum of one hundred and seventy-six thousand and nine hun-

dred dollars, with interest thereon from the 20th day of December, A. D. 1866, besides the costs of this action.

46 BIRDSEYE & CROSBY,
Pl'ff's Attorneys.

New York supreme court.

JOSEPH B. STEWART
vs.
LEONARD HUYCK. } Notice of appearance.

Please to take notice that I have been retained by and appear for the defendant, Leonard Huyck, in the above entitled action, and demand a copy of the complaint herein to be served on me at my office, No. 170 Broadway, in the city of New York.

Dated the eighth day of January, 1867.

Yours, &c.,

JOHN F. BAKER,
Attorney for Def't.

To BIRDSEYE & CROSBY, Esq'rs, *Pl'ff's Att'ys.*

Supreme court, New York.

JOSEPH B. STEWART
vs.
LEONARD HUYCK. } Offer of compromise.

I am retained by the defendant in this action, and said defend-
47 ant offers to allow judgment to be taken herein against him by the said plaintiff for the sum of one hundred and seventy-six thousand and nine hundred dollars, with interest on the same from the 20th day of December, A. D. 1866, with costs; of all which please take notice.

Dated January 8th, 1866.

Yours, &c.,

JOHN F. BAKER,
Def't's Att'y.

To BIRDSEYE & CROSBY, Esq'rs, *Pl'ff's Atty's.*

Supreme court, city and county of New York.

JOSEPH B. STEWART
vs.
LEONARD HUYCK.

To John F. Baker, attorney for defendant:

Take notice that the plaintiff accepts the offer of the defendant to allow him to take judgment in this action for the sum of one hundred and seventy-six thousand and nine hundred dollars, with interest on the same from the 20th day of December, A. D. 1866, with costs.

Dated January 9th, 1866.

Yours, &c.,

BIRDSEYE & CROSBY,
Attorneys for Pl'ff.

48 Supreme court, city and county of New York.

JOSEPH B. STEWART }
vs.
LEONARD HUYCK. }

CITY AND COUNTY OF NEW YORK, *ss:*

Charles P. Crosby, of the city of New York, one of the attorneys for the plaintiff herein, being duly sworn, says that the annexed offer to allow judgment made by the defendant, by John F. Baker, his attorney, was served on Birdseye and Crosby, attorneys for the plaintiff, on the 8th day of January, A. D. 1867, and that on the 9th day of January, A. D. 1867, he served upon the defendant's attorney, John F. Baker, at his office, No. 170 Broadway, in the city of New York, a notice that plaintiff accepted the same, of which the foregoing and annexed is a copy.

CHA'S P. CROSBY.

Subscribed and sworn before , this 9th day of January, A. D. 1867.
JAMES C. CLOYD,
Notary Public, N. Y. City.

Supreme court, city and county of New York.

JOSEPH B. STEWART }
vs. } Judgment.
LEONARD HUYCK. }

The summons, with a copy of the complaint in this action,
49 having been duly served on Leonard Huyck, defendant herein, and no copy of any answer or demurrer to the complaint having been served on the plaintiff, as required, and the said Leonard Huyck, defendant, having appeared in person in said action, and having offered to allow judgment to be entered in said action in favor of said plaintiff, and against the said defendant, for the sum of one hundred and seventy-six thousand nine hundred dollars, principal, with interest thereon from the 20th day of December, A. D. 1866, as stated in the complaint herein, and the said plaintiff having within ten days thereafter, to wit, on the 9th day of January, A. D. 1067, accepted said offer and given notice thereof in writing to the said defendant:

Now, on motion of Birdseye and Crosby, attorneys for plaintiff, it is hereby ordered and adjudged that Joseph B. Stewart, the plaintiff, recover of Leonard Huyck, the defendant, the sum of one hundred and seventy-seven thousand five hundred and seventy-eight dollars and fifty-eight cents, being the amount claimed and interest, with nineteen dollars and eleven cents and disbursements, amounting in the whole to the sum of one hundred and seventy-seven thousand five hundred and ninety-seven dollars and sixty-nine cents, and that the said plain-
50 tiff have execution therefor against the said defendant.

All which we have caused by these presents to be exemplified, and the seal of our said supreme court to be hereunto affixed.

Witness , justice, at the city of New York, the 14th day of March, in the year of our Lord one thousand eight hundred and sixty-eight, and of our independence the ninety-second.

CHAS. E. LOEW, *Clerk.*

I, , presiding justice of the supreme court of the State of New York, for the city and county of New York, do hereby certify that

Charles E. Loew, whose name*d* is subscribed to the preceding exemplification, is the clerk of the said county of New York, and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said supreme court, and that the attestation thereof is in due form.

GEORGE G. BARNARD.

Dated New York, March 14th, 1868.

STATE OF NEW YORK,

City and County of New York, ss:

51 I, Charles E. Loew, clerk of the supreme court of said State, in and for the city and county of New York, do hereby certify, that George B. Barnard, whose name is subscribed to the preceding certificate, is presiding justice of the supreme court of said State in and for the city and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

In testimony whereof I have hereto set my hand, and affixed the seal of the said court, this 14th day of M'ch, 1868.

[NEW YORK SEAL.] CHA'S E. LOEW, *Clerk.*

EXHIBITS 4 & 5.

Whereas I, Leonard Huyck, for a good and valuable consideration paid to, and received by me, from Joseph B. Stewart, attorney at law, did, on or about the month of February, A. D. 1867, assign, transfer, and deliver to said Stewart all account, claims, or demands due, or in my favor, against the firm of Bayne & Co., of the city of Baltimore, and especially an account rendered me by said Bayne & Co., dated December first, A. D. 1865, showing that I was entitled to receive from said Bayne & Co. the value of twenty-five hundred (2,500) shares
52 of the capital stock of the Washington, Alexandria and Georgetown Railroad Company, and four hundred shares of the stock of the Merchants' National Bank of Washington, D. C., and six thousand dollars ($6,000) of the city of Albany bonds, which said contract of assignment, duly signed and sealed, was delivered to the said Stewart; and whereas, I did subsequently, and on or about the 15th day of June, 1868, make a further and special assignment to said Stewart, and to him set over and deliver all, and every sum, or amount due, or acknowledged to be due to me by Lawrence P. Bayne, of said firm of Bayne & Co., in his schedule of creditors in bankruptcy, A, 3, then, and now on file in the United States court of the district of Maryland, being the sum of $56,316$\frac{66}{100}$, and also any farther sum that might be found due from said Bayne & Co., the last-named assignment being designed to further particularize the assignment first mentioned.

And whereas the said Stewart informs me that he has lost or mislaid the said two assignments; now, therefore, this affirmatory and supplemental assignment witnesseth that I, Leonard Huyck, did, heretofore, at the time, for the good and valuable consideration mentioned,
53 assign to said Stewart the said property, security, and effects, and any and all claims, demands, and rights of action thereon so due me from the said Bayne & Co., and by this agreement do further and continue to assign to the said Stewart all and singular the said rights and demands against the said Bayne & Co., as aforesaid, the same

to have and to hold to his own proper use and behoof absolutely, and forever, as by said first-named assignment was stipulated and provided.

In testimony whereof I have hereunto set my hand, and affixed my seal, this 12th day of October, A. D. 1868.

LEONARD HUYCK.

STATE OF NEW YORK, *City and County of New York, ss:*

Before me personally appeared Leonard Huyck, to me well-known to be the person who executed the foregoing instrument, and acknowledged that he executed the same for the purposes therein set forth.

[SEAL.] GEO. W. VAN SLYCK,
Notary Public, Co. N. Y.

EXHIBIT S, No. 6.

The people of the State of New York, by the grace of God free
54 and independent, to all to whom these presents shall come, or may concern, greeting:

Know ye that we, having examined the records and files in the office of the clerk of the county of New York, and clerk of the supreme court of said State for said county, do find a certain summons, complaint, and answer there remaining, in the words and figures following, to wit:

(NEW YORK) (SEAL.)

Supreme court, city and county of New York.

JOSEPH B. STEWART, PL'FF, *against* LAWRENCE P. BAYNE, WILLIAM T. HOUGH, and John Honeywell, def'ts. } Summons.—For a money demand on contract.

To the defendants above named:

You are hereby summoned and required to answer the complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber at his office, No. 20 Nassau street, in the city of New York, within twenty days after the service hereof, exclusive of the day of such service; and if you fail to answer the complaint within the time aforesaid, the
55 plaintiff in this action will take judgment against you for the sum of two hundred and sixty-three thousand seven hundred and thirty six $\frac{00}{100}$ dollars, with interest from the first day of December, one thousand eight hundred and sixty-five, besides the costs of this action.

Dated June 9th, 1868.

GEO. W. VAN SLYCK, *Pl'ff's Attorney,*
20 Nassau street, N. Y. City.

Supreme court, city and county of New York.

JOSEPH B. STEWART, PLAINTIFF, *vs.* LAWRENCE P. BAYNE, WILLIAM T. HOUGH, and John Honeywell, defendants.

The above-named plaintiff, by his attorney, Geo. W. Van Slyck, respectfully shows unto this cour and complains—

That at the times and dates hereinafter mentioned the defendants

were copartners doing business as bankers in the city of Baltimore, Maryland, under the firm name of Bayne & Co.

That on the first day of December, 1865, at the city of Baltimore, Md., an account was stated and adjusted by and between one Leonard Huyck and the defendants, a copy of which said statement is herewith
56 annexed and marked Schedule one, which this plaintiff prays may be taken as a part of this complaint, and upon such statement and accounting a balance of two hundred and sixty-three thousand seven hundred and thirty-six $\frac{20}{100}$ dollars was computed and found to be due from said defendants to said Huyck, which said sum the said defendants then and there promised to pay the said Huyck.

That no part of the same has been paid.

And this plaintiff further shows that, on or about the 27th day of February, 1868, the said Leonard Huyck duly assigned and transferred all his claims and demands, of what nature and kind soever, as well as in law as in equity, which he then had against the said defendants, to this plaintiff, including the account above mentioned.

Whereupon this plaintiff demands judgment against said defendants for the sum of $263,736\frac{20}{100}$ dollars, with interest from the first of December, 1865, A. D., beside the cost of this action.

GEO. W. VAN SLYCK,
Att'y for Pl'ff, 20 Nassau St., N. Y. City.

CITY AND COUNTY OF NEW YORK, *ss:*

Joseph B. Stewart, the above-named plaintiff, being duly sworn,
57 says that the foregoing complaint is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

J. B. STEWART.

Sworn to before me this 9th day of June, 1868.

G. P. HAWES,
Notary Public, N. Y. City & Co.

L. Huyck, esq., in ac. with Bayne & Co.

1865.	DR.			
May 31	To draft on L. P. Bayne	184	$920	$30,000
July 12	" "	142	733 67	31,000
28	" "	126	135 53	6,453 92
Aug. 22	" "			50
"	" "	101	421 67	25,000
Dec. 1	" Bal. int. a 6 % $437 24 a 7 3/10 %			531 97
			$2,210 87	$93,035 89
1865.	CR.			
May 31	By proceeds Maury & Co.'s accept. due June 18th.			$14,612 23
	June 28th			10,237
	July 18	184	$1,074 41	10,185 43
	Aug. 15			12,879
	" 18	163	699 22	12,859 13
	Balance int. ac		437 24	
Dec. 1	By balance of a/c			32,263 10
			2,210 87	93,035 89
1865.	DR.			
Dec. 1	To balance due Bayne & Co			$32,263 10

58 On hand for your ac:
6,000 city of New Albany bonds.
400 sh's Mer. Nat. B'k, Wash'n.
225 " 1st Nat. B'k, Richm'd, [*erased,*] ret. him.
2,500 " Wash'n, Alex. & G'town R. Rd.
Due Bayne & Co:
2,000 sh's M'd Anth. Coal Co. stock.
E. & O. E.
BALTIMORE, *Dec.* 1st, 1865.

BAYNE & CO.
Per W. REMINGTON.

(Over.)
(Endorsed:) Filed Sept. 12, 1868.

Supreme court, State and county of New York.

JOSEPH B. STEWART
against
LAWRENCE P. BAYNE, WILLIAM T. HOUGH, and John Honeywell.

The said defendant, Lawrence P. Bayne, answering the complaint herein, admits that at the dates named therein, the defendants were copartners as alleged.

Further answering said complaint, defendant, save as above admitted, denies each and every allegation in said complaint.

For further and separate answer to said complaint, said defend-
59 ant alleges that, before the commencement of this action, viz: on the 30th day of May, 1868, in the district court of the United States for the district of Maryland, he filed his petition for discharge from all his debts, in accordance with law for that purpose duly made and provided. And such proceedings were thereupon had that, afterwards, to wit: on the 8th day of July, 1868, this defendant was duly adjudged a bankrupt in said court.

Defendant further says that under said petition proceedings are still pending and being had for a final decree discharging defendant from all his debts.

Defendant, further answering, says that the supposed indebtedness alleged in the complaint, if any such ever did accrue, accrued before the filing of said petition and the said adjudication of bankruptcy, and said indebtedness, if any, was proveable against the estate of the defendant in the said matter of the proceedings in bankruptcy upon said petition, and the same was not such as is excepted by law from the operation of a discharge in bankruptcy.

Wherefore said defendant prays that the complaint herein be dismissed with costs, and for such other and further relief as in
60 equity defendant is and shall be entitled to.

SULLIVAN & BRACKEN,
Att'ys for Defendant.

CITY AND COUNTY OF NEW YORK, *ss:*

Lawrence P. Bayne, said defendant, having first been duly sworn, makes oath that the foregoing answer is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

L. P. BAYNE.

Sworn to before me this 22nd day of July, 1868.

JOHN F. DOYLE,
Notary Public N. Y. County.

(Endorsed:) Filed Sept. 14th, 1868.

All of which we have caused by these presents to be exemplified, and the seal of our said supreme court to be hereunto affixed.

Witness, Albert Cardoza, justice at the city of New York, the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight, and of our independence the ninety-third.

CHA'S E. LOEW, *Clerk.*

61 I, Albert Cardoza, presiding justice of the supreme court of the State of New York for the city and county of New York, do hereby certify that Charles E. Loew, whose name is subscribed to the preceding exemplification, is the clerk of the said county of New York, and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said supreme court, and that the attestation thereof is in due form.

Dated New York, Sept. 18th, 1868.

ALBERT CARDOZA,
Justice N. Y. Supreme C't, Presiding.

STATE OF NEW YORK,
City and County of New York, ss:

I, Charles E. Loew, clerk of the supreme court of said State in and for the city and county of New York, do hereby certify that Albert Cardoza, whose name is subscribed to the preceding certificate, is presiding justice of the supreme court of said State in and for the city and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

62 In testimony whereof, I have hereunto set my hand and affixed the seal of said court, this 18th day of Sept., 1868.

(NEW YORK)
(SEAL.)

CHA'S E. LOEW, *Clerk.*

EXHIBIT No. 7.

L. Huyck in ac. with Bayne & Co.

1865.	DR.			
May 31	To draft on L. P. Bayne	184	930	$30,000
July 12	" "	142	733 67	31,000
" 28	" "	126	135 53	6,453 92
Aug. 22	" "			50
" "	" "	101	421 67	25,000
Dec. 1	" Bal. int. *a* 6 %, $437 24 *a* 7 3/10 %			531 97
			$2,210 87	$93,035 89
1865.	CR.			
May 31	By p'c'ds Maury & Co., acct'ce, due June 18.			14,612 23
" "	" " " June 28.			10,237
" "	" " " July 28.	184	1,074 41	10,185 43
June 21	" " " Aug. 15.			12,879
" "	" " " " 18.	163	699 22	12,859 13
	Bal. int. %		437 24	
Dec. 1	By balance of %			32,263 10
			$2,210 87	$93,035 89
1865.	DR.			
Dec. 1	To balance due Bayne & Co.			$32,263 10

58 On hand for your ac:
6,000 city of New Albany bonds.
400 sh's Mer. Nat. B'k, Wash'n.
225 " 1st Nat. B'k, Richm'd, [*erased,*] ret. him.
2,500 " Wash'n, Alex. & G'town R. Rd.
Due Bayne & Co:
2,000 sh's M'd Anth. Coal Co. stock.
E. & O. E.
BALTIMORE, *Dec.* 1st, 1865.

BAYNE & CO.
Per W. REMINGTON.

(Over.)
(Endorsed:) Filed Sept. 12, 1868.

Supreme court, State and county of New York.

JOSEPH B. STEWART
against
LAWRENCE P. BAYNE, WILLIAM T. HOUGH, and John Honeywell.

The said defendant, Lawrence P. Bayne, answering the complaint herein, admits that at the dates named therein, the defendants were copartners as alleged.

Further answering said complaint, defendant, save as above admitted, denies each and every allegation in said complaint.

For further and separate answer to said complaint, said defend-
59 ant alleges that, before the commencement of this action, viz: on the 30th day of May, 1868, in the district court of the United States for the district of Maryland, he filed his petition for discharge from all his debts, in accordance with law for that purpose duly made and provided. And such proceedings were thereupon had that, afterwards, to wit: on the 8th day of July, 1868, this defendant was duly adjudged a bankrupt in said court.

Defendant further says that under said petition proceedings are still pending and being had for a final decree discharging defendant from all his debts.

Defendant, further answering, says that the supposed indebtedness alleged in the complaint, if any such ever did accrue, accrued before the filing of said petition and the said adjudication of bankruptcy, and said indebtedness, if any, was proveable against the estate of the defendant in the said matter of the proceedings in bankruptcy upon said petition, and the same was not such as is excepted by law from the operation of a discharge in bankruptcy.

Wherefore said defendant prays that the complaint herein be dismissed with costs, and for such other and further relief as in
60 equity defendant is and shall be entitled to.

SULLIVAN & BRACKEN,
Att'ys for Defendant.

CITY AND COUNTY OF NEW YORK, *ss:* —

Lawrence P. Bayne, said defendant, having first been duly sworn, makes oath that the foregoing answer is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

L. P. BAYNE.

Sworn to before me this 22nd day of July, 1868.

JOHN F. DOYLE,
Notary Public N. Y. County.

(Endorsed:) Filed Sept. 14th, 1868.

All of which we have caused by these presents to be exemplified, and the seal of our said supreme court to be hereunto affixed.

Witness, Albert Cardoza, justice at the city of New York, the eighteenth day of September, in the year of our Lord one thousand eight hundred and sixty-eight, and of our independence the ninety-third.

CHA'S E. LOEW, *Clerk.*

61 I, Albert Cardoza, presiding justice of the supreme court of the State of New York for the city and county of New York, do hereby certify that Charles E. Loew, whose name is subscribed to the preceding exemplification, is the clerk of the said county of New York, and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said supreme court, and that the attestation thereof is in due form.

Dated New York, Sept. 18th, 1868.

ALBERT CARDOZA,
Justice N. Y. Supreme C't, Presiding.

STATE OF NEW YORK,
City and County of New York, ss:

I, Charles E. Loew, clerk of the supreme court of said State in and for the city and county of New York, do hereby certify that Albert Cardoza, whose name is subscribed to the preceding certificate, is presiding justice of the supreme court of said State in and for the city and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

62 In testimony whereof, I have hereunto set my hand and affixed the seal of said court, this 18th day of Sept., 1868.

(NEW YORK)
(SEAL.)

CHA'S E. LOEW, *Clerk.*

EXHIBIT No. 7.

L. Huyck in ac. with Bayne & Co.

1865.	DR.			
May 31	To draft on L. P. Bayne	184	930	$30,000
July 12	" "	142	733 67	31,000
" 28	" "	126	135 53	6,453 92
Aug. 22	" "			50
" "	" "	101	421 67	25,000
Dec. 1	" Bal. int. *a* 6 %, $437 24 *a* 7 3/10 %			531 97
			$2,210 87	$93,035 89
1865.	CR.			
May 31	By p'c'ds Maury & Co., acct'ce, due June 18.			14,612 23
" "	" " " June 28.			10,237
" "	" " " July 28.	184	1,074 41	10,185 43
June 21	" " " Aug. 15.			12,879
" "	" " " " 18.	163	699 22	12,859 13
	Bal. int. %		437 24	
Dec. 1	By balance of %			32,263 10
			$2,210 87	$93,035 89
1865.	DR.			
Dec. 1	To balance due Bayne & Co.			$32,263 10

On hand for your a|c:
6,000 city of New Albany b'ds.
63 400 sh's Mer. Nat. B'k Wash'n.
225 " 1st Nat. B'k Richm'd, [*erased,*] ret. him.
2,500 " Wash., Alex. & G'town R. R'd.
Due Bayne & Co. 2,000 sh's M'd Anth. Coal Co.'s stock.
E. E.
BALTIMORE, Dec. 1st, 1865.

BAYNE & CO.
Per W. REMINGTON.

EXHIBIT S, No. 8.

LAWRENCE P. BAYNE, JOHN HONEYWELL, and WILLIAM T. HOUGH, copartners trading as Bayne & Co., assignment for the benefit of creditors,
to
William Bayne, Oscar King, and Charles W. Boleter. One $200, also one $50 stamps each marked L. P. B., J. H., W. T. H., 5th May, 1866.

This deed, made this fifth day of May, in the year eighteen hundred and sixty-six, between Lawrence P. Bayne, John Honeywell, and William T. Hough, of Baltimore City, lately trading in said city,
64 as brokers and bankers, under the name and firm of "Bayne & Co.," of the first part, and William Bayne and Oscar King, of said city, and Charles W. Boteler, of Washington City, of the other part, witnesseth, that the said parties hereto of the first part, for and in consideration of the sum of one dollars, current money to them in hand paid by the said parties hereto of the second part, at or before the sealing and delivery of these presents, and the receipt whereof is hereby acknowledged, and to provide as far as may be practicable for the payment of all debts due and owing by them, whether the same were contracted by them jointly in the prosecution of their said joint business, or by any of them severally or individually, have granted, bargained, and sold, assigned, transferred, and set over, and by these presents do grant, bargain and sell, assign, transfer and set over unto the said parties hereto of the second part, and the survivors and survivor of them, all the real and personal property and effects of the said parties hereto of the first part, and any of them, and all debts, dues, and demands whatsoever now due and owing, or to become due and owing, from any and every person and persons whatsoever to the said parties hereto of the first part, or any or either of them: to have and to
65 hold all and singular the property and effects, rights, and credits hereby granted unto the said parties hereto of the second part, and the survivors and survivor of them, and to their and his own proper use and behoof, in trust, nevertheless, that the said parties hereto of the second part, and the survivors and survivor of them, shall and will, as soon as conveniently may be after the sealing and delivery of these presents, sell and dispose of all and singular the real and personal property and effects hereby granted, at public or private sale, at such time and times, in such manner and on such terms as they and he may deem expedient, and the proceeds of such sales as received, together with the proceeds of the said debts, dues, and demands

hereby assigned as collected, to apply in manner following, that is to say: In the first place, to defray the costs and charges attending the execution of this trust, including a commission of six per cent. on the amount collected and received, to be retained by the said trustees for their trouble in the execution of this trust. And secondly, to the payment of the several creditors of the said parties hereto of the first part, named in the schedule hereunto annexed, of the sums of money thereby admitted to be due to them, respectively, amounting in the aggregate to the sum of seventy-five thousand seventy-seven dollars. And
66 thirdly, to the payment of the Merchants' National Bank of Washington, of the sum of one hundred and fifty thousand dollars, in part payment of a larger debt hereby admitted to be due and owing from the said parties hereto of the first part to the said bank. And fourthly, to the payment of the claims of such of the creditors of the said parties hereto of the first part, contracted in the prosecution of their aforesaid partnership trade, and including the residue of the said claim of the said Merchants' National Bank of Washington, as shall, on or before the first day of July next, execute —— deliver to the said parties hereto of the second part full and absolute releases and acquittances to the said parties hereto of the first part of and from their aforesaid claims respectively. And fifthly, to the payment of the claims of all other creditors of the said parties hereto of the first part, whether joint or several, and without any distinction or priority whatsoever, other than that so much of the said surplus as consists of the proceeds or avails of joint property or effects shall be applied primarily to the payment of the debts due and owing by the said parties hereto of the first part jointly, in preference to debts due and owing by the said parties, or any of them, severally, and that so much of the said surplus as consists of the proceeds or avails of
67 the separate property and effects of any one of said parties shall be applied primarily to the payment of debts due and owing by the same party severally, in preference to debts due and owing by the said parties jointly, or any other of them separately. And if the said trust fund, or such part thereof as is hereby made applicable to any class of creditors, shall prove inadequate to the payment in full of all the claims of said class, then such part of said trust fund shall be distributed amongst all the creditors constituting said class so provided for, rateably and proportionally to the amounts of their several and respective claims. And, lastly, if any surplus shall remain, after the entire payment of all debts due and owing by the said parties of the first part, whether the same be due and owing by them jointly, or by any or either of them separately, then, that the said surplus be paid over to the parties aforesaid as the said parties hereto of the second part shall deem just and equitable, having due regard to the interests of the said parties hereto of the first part, and each of them, in the property and effects hereby assigned and transferred. And the said parties hereto of the first part, jointly, and each of them for himself severally, do hereby constitute and appoint the said parties hereto of the second part, and the survivors and survivor of them, their and his true and lawful attorneys and attorney, for them and him, and in their and his name, as
68 the case may require, to ask, demand, sue for, recover, and receive all such sums of money, debts, dues, and demands whatsoever, that are now due or owing, or may become due and owing to the parties hereto of the first part, or any or either of them, and for the same, when received, acquittances and discharges to execute and deliver, and also to compromise, adjust, arbitrate, and settle at their discretion, all

and every dispute or difference which has arisen or may arise respecting any claim or demand hereby assigned, and to compound any such claim or demand as they may deem expedient.

Witness the hands and seals of the parties hereto of the first part, the day and year first hereinbefore written.

L. P. BAYNE. [SEAL.]
JOHN HONEYWELL. [SEAL.]
W. T. HOUGH. [SEAL.]

Witnesses:
B. STOCKETT MATTHEWS.
R. C. MURRAY.

STATE OF MARYLAND, *Baltimore City, to wit:*

On this fifth day of May, in the year eighteen hundred and sixty-six, before me, a justice of the peace in and for said city, personally appeared the above-named Lawrence P. Bayne, John Honeywell, and William T. Hough, and severally acknowledged the aforegoing instrument of writing to be his act and deed. And at the same time
69 also appeared the within-named William Bayne, Oscar King, and Charles W. Boteler, and severally made oath that the consideration expressed in the foregoing instrument of writing is true and bona fide as therein set forth.

R. C. MURRAY, *J. P.*

[5-cent rev. stamp.]

Schedule of creditors of the first class provided for by the foregoing instrument of writing.

Conoway, Haughter & Co	1,000
John Chanciller	850
A. N. Bastable & Co	5,400
Thomas A. Waters	1,500
Mrs. Martha Bell	8,000
Samuel Tinbull	1,800
John Deitz	400
W. M. Meyenberg	1,300
Kirkland, Chase & Co	35,000
Oscar King	7,827
William D. Jones & Co	9,000
O. Brœhme & Co	3,000
	$75,077

Received for record May 5th, 1866, at 11¼ o'clock a. m. Same day recorded & examined.

Pr. ALFRED MACE, *Clerk.*

EXHIBIT No. 9.

70, 71

SCHEDULE A 2.—*(As approved.)*

In the matter of Lawrence P. Bayne, bankrupt. Creditors holding securities.

N. B.—Particulars of securities held, with dates of same, and when given, are to be stated under the names of the several creditors, and also particulars concerning each debt, as required by the 11th sec. of the act, and whether contracted as copartner or joint contractor with any other person, & if so, with whom.

Refe'e to ledger or voucher.	Names of creditors.	Residence and occupation.	When, where contracted.	Val. of securities.	Am't of debts.	Particulars.
				$ cts.	$ cts	
	Nat. Exchange Bank	Baltimore; national bank	1866, Baltimore	164,250	140,431 29	Joint debt with Jno. Honeywell & W. T. Hough.
	National Union Bank	Baltimore; national bank	1866, Baltimore	300,139	287,641 31	Ditto.
	Franklin Bank	Baltimore; State bank	1866, Baltimore	18,913	25,000	Ditto.
	Nat. Mechanics' Bank	Baltimore; national bank	1866, Baltimore	385,864	377,444 17	Ditto.
	Colston, Archer & Co	Baltimore; bankers	1866, Baltimore	9,306 50	17,500	Ditto.
	Given, Jones & Co	New York; bankers	1866, New York	55,000	51,633 05	Ditto.
	Purvis & Co	Baltimore; bankers	1866, Baltimore	10,000	8,991 35	Ditto.
	H. R. Riddle	Baltimore	1866, Baltimore	9,800	4,000	Ditto.
	Merchants' Nat. Bank	Washington; national bank	1866, Washington		206,071 87	Ditto, secured in part by preference in deed of trust hereinafter referred to.
	Mrs. Martha Bell	Washington	1866, Washington		8,000	Ditto.
	O. Beehume & Co	Baltimore; merchants	1866, Baltimore		3,000	Ditto.
	John J. Chancellor	Baltimore; drover	1866, Baltimore		800 71	Ditto.
	A. N. Bastable	Baltimore; merchant	1866, Baltimore		5,291 22	Ditto.
	Conway, Slaughter & Co	Fredericksburg, Va; merchants	1866, Fredericksburg		1,705 66	Ditto.
	Oscar King	Baltimore; merchants	1866, Baltimore		7,827	Ditto.
	W. M. Meyenberg	Baltimore; merchants	1866, Baltimore		1,300	Ditto.
	Thomas A. Waters	Alexandria, Va; merchant	1866, Alexandria		2,821 42	Ditto.
	Wm. B. Jones and Co	Richmond, Va; merchants	1866, Richmond		9,000	Ditto.
	Samuel Turbutt	Baltimore; reporter	1866, Baltimore		1,800	Ditto.
	Kirkland, Chase & Co	Baltimore; merchants	1866, Baltimore		46,000	Ditto
	John Deitz	Baltimore	1866, Baltimore		400	Ditto.

True copy, test:

JAMES W. CHEW,
Clerk District Court.

L. P. BAYNE.

72 EXHIBIT S, No. 10.

BALTIMORE, *June 23rd*, 1868.

For and in consideration of the sum of one hundred dollars, the receipt whereof is hereby acknowledged, the undersigned, trustees of Bayne & Co., do hereby sell and transfer to the National Union Bank of Maryland, at Baltimore, any and all residuary interest or right of redemption that they may have in any and all stocks, bonds, or other securities held by the said National Union Bank of Maryland at Baltimore, as collateral security for the indebtedness of Bayne & Co. to said bank.

(Signed,) H. R. RIDDLE,
WM. BAYNE,
ALLEN A. CHAPMAN,
Trustees of Bayne & Co.

[5 c. stamp.]

EXHIBIT S, No. 11.

Copy release.

BALTIMORE, *June* 23, 1868.

For and in consideration of the sum of one hundred dollars, paid by the trustees of Bayne & Co., to the undersigned banks, to wit, the National Union Bank of Maryland, the National Exchange Bank and the National Mechanics' Bank, ($100 each,) they do severally release,
73 exonerate, and acquit Lawrence P. Bayne, one of the firm of Bayne & Co., of all indebtedness of every nature or kind now or heretofore existing and due by the said L. P. Bayne, either individually or as a member of the said firm of Bayne & Co., to the said banks.

WM. W. TAYLOR, *Pres't.*
JOHN HURST,
Pres't National Ex. Bank.
R. T. BALDWIN,
Pres't Nat. Mechanics' Bank.

In testimony that the aforegoing is a true copy of the original on file among the proceedings in bankruptcy in the case of L. P. Bayne, I hereto subscribe my name and affix the seal of the said district court this twentieth day of July, in the year eighteen hundred and sixty-eight.

JAMES W. CHEW,
Clerk Dis. C't.

Whereupon issued subpœna, as prayed for in said bill, in form following, to wit:

Subpœna.

THE UNITED STATES OF AMERICA, —
District of Maryland, to wit:

74 To the National Union Bank of Maryland, the National Mechanics' Bank of Baltimore, the National Exchange Bank of Baltimore, Lawrence P. Bayne, William T. Hough, John Honeywell, Wm. Bayne, Allen A. Chapman, and Horatio R. Riddle, greeting:

(THE SEAL OF THE CIRCUIT COURT, MARYLAND.) You are hereby commanded that, all excuses and delays set aside, you be and appear at the clerk's office of the circuit court of the United States for the fourth circuit

in and for the Maryland district, at the United States court-house in the city of Baltimore, on the first Monday in November next, to answer unto the bill of complaint of Joseph B. Stewart, in the said court exhibited against you.

Hereof you are not to fail at your peril, and have you then and there this writ.

Witness the honorable S. P. Chase, Chief Justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and sixty-seven.

Issued the 9th October, 1868.

JAMES W. CHEW,
Clk Circuit Court.

At which said first Monday in November, to wit, in the year of our Lord 1868, being the return day of the aforegoing subpœna, the
75 marshal of the Maryland district, to whom the same was delivered to be served, made return thereof to the court here, thus endorsed, to wit:

"Summoned," W. Bonifant, U. S. marshal.

And the said National Exchange Bank appears by William F. Frick, esquire, its solicitor.

And the said National Mechanics' Bank appears by Theophilus B. Horwitz, esquire, its solicitor,

And the said National Union Bank appears by J. Nevitte Steele, esquire, its solicitor.

And the said William Bayne, Allen A. Chapman, and Horatio R. Riddle appear, S. Teakle Wallis, John H. Thomas, and Thomas W. Hall, jun., esquires, their solicitors.

And afterwards, to wit, on the seventh day of December, in the year 1869, the said National Union Bank of Maryland, the National Mechanics' Bank, and the National Exchange Bank of Baltimore, by their solicitors aforesaid, filed in the circuit court here the following demurrer and answer, to wit:

Demurrer and answer.

The demurrer and answer of the National Union Bank of Maryland at Baltimore, and the National Mechanics' Bank of Baltimore, and the National Exchange Bank of Baltimore, to the bill of complaint of Joseph B. Stewart, against these defendants and others, exhibited in the
76 circuit court of the United States for the district of Maryland, on the equity side thereof.

The defendants by protestation, not confessing or acknowledging all or any of the matters or things in the said bill of complaint contained to be true in manner and form as the same are therein set forth, as to so much and to such parts of said bill as seek that these defendants may answer as to the provisions of the 29th section of the act of Congress, entitled "An act to provide a national currency, &c.," approved June 3d, 1864, and may answer as to the amount of capital stock of said defendants, respectively, as banking associations, under said act of Congress, in and about the year 1866, and as to the amounts loaned by these defendants, as such associations, to the firm of Bayne & Co., and the balance due thereon on the 3d day of May, 1866, after deducting all previous payments made by said Bayne & Co., and as to the collaterals and securities received by these defendants from Bayne & Co., and held

on account of said loans and the balances due thereon, and whether the said loans and the receipt of said collaterals and securities for the same were illegal and void, as being in violation of the 29th section of the aforesaid act of Congress; and whether the directors, officers, and stockholders of these defendants kept speculative accounts with said firm of Bayne & Co., and encouraged and participated in their illegitimate
77 and hazardous adventures, and so acted as that the said directors, officers, and stockholders have incurred the forfeitures, liabilities, and penalties imposed by the 53d section of said act, these defendants do demur, and for cause of demurrer shew:

That according to the true construction of the act of Congress aforesaid, the complainant has no right to call upon this court to examine into and decide upon the matters above demurred to, but the same are examinable only at the instance and suit of the Government of the United States and its authorized officer, under and in conformity with the provisions of said act.

And that the said matters, as alleged, do not affect the validity of the said laws by these defendants to the said Bayne & Co., nor do they destroy, invalidate, or affect the title of these defendants to the aforesaid collaterals and securities.

And as to so much and such parts of said bill as seek that these defendants may answer and set forth whether they did not, on or about the 23d day of June, 1868, purchase from the trustees of Bayne & Co., in consideration of the sum of one hundred dollars paid by each of these defendants, to said trustees, all the equity of redemption and reversionary interest of said trustees in the aforesaid collaterals and securities, and whether these defendants did not subsequently, each of
78 them, execute to Lawrence P. Bayne a release of all claims and demands of these defendants against him, and which pray that these defendants may set forth a statement of all the dealings of each one of them with Bayne & Co., and Lawrence P. Bayne, personally, and the amounts of money loaned and advanced by each one of them to said parties, and the amounts of money paid back by said parties to each one of these defendants, on account of such loans or advances, and the amount of collaterals, assets, and securities had and received from said Bayne & Co. and Lawrence P. Bayne, by each of said defendants, and a statement of the disposition made thereof. And that all and singular the assets, stocks, and securities held by these defendants, belonging to Bayne & Co., may be placed under the charge of an assignee in bankruptcy, in the proceedings now pending on the part of said Bayne. And that all payments which were made by the said Bayne & Co. to each of these defendants, over and above the amount of ten per cent. of the capital stock of each of these defendants, should be paid over by each of them to the register in bankruptcy of this honorable court, or to such assignee as may be elected by the complainant and other creditors of the said Bayne, to such extent as will discharge the claims of the complainant and other creditors of Bayne & Co., under the proceedings of L. P. Bayne in bankruptcy, these defendants do demur, and for cause of demurrer shew:

That by the complainant's own showing, on the 3d day of May,
79 A. D. 1866, more than two year before the petition in bankruptcy of the said L. P. Bayne, all the property, assets, rights, and credits of the firm of Bayne & Co. were validly assigned and set over to trustees, for the benefit of complainant and other creditors of Bayne & Co., in manner and effect as set forth in the deed of assignment filed with the complainant's bill, and if these defendants, or either of them at that time,

held monies or securities of said firm of Bayne & Co., for which they were liable to account, according to the prayer of the complainant's bill, the right to such an account and to sue therefor was vested in said trustees and not in the complainant, as a creditor of Bayne & Co.

And that inasmuch as, by the complainant's own showing, the property, assets, rights, and credits of Bayne & Co. were by the deed of 3rd May, 1866, vested in trustees for the benefit of the creditors of Bayne & Co., according to the terms of said deed, neither the register in bankruptcy nor the assignee in bankruptcy of L. P. Bayne, one of the members of said firm, is entitled to receive, hold, or distribute the monies or securities alleged to be in the hands of these defendants, for the use of creditors of Bayne & Co. And that inasmuch as, by the complainant's own showing, the property, assets, rights, and credits of said firm of Bayne & Co. were vested in trustees for the use of certain parties, named as cestuy que trusts in said deed, the said cestuy que trusts
80 are proper and necessary parties to this suit.

Wherefore, and for other good causes of demurrer in said bill contained, these defendants pray judgment, whether they shall be compelled to make any further or other answer to such parts of said bill as are so demurred to as aforesaid.

And as to the residue of said bill, the said defendants not waiving their said demurrer, but relying thereon, for answer to the residue of said bill, say:

That they have no knowledge of the alleged indebtedness of Bayne & Co. to the complainant, nor of the alleged indebtedness of Leonard Huyck to the complainant, nor of the alleged indebtedness of Bayne & Co. to the said Huyck, nor of the alleged assignment by said Huyck to the complainant, or of his claims against Bayne & Co., nor of the alleged legal proceedings by the complainant against Bayne & Co. in the State of New York, nor of the alleged assignment by Huyck to the complainant of all claims and demands of the said Huyck against Bayne & Co., as set forth in the schedule in bankruptcy of said L. P. Bayne, nor of the alleged acceptance of Bayne & Co. in favor of Charles H. Stewart, claimed by the complainant. They therefore do not admit the same, but leave the complainant to such proof thereof as he may be advised
81 to make.

And further answering these defendants say, that they did not know at the time of the making of loans to the said firm of Bayne & Co., as bankers and brokers, that they were engaged in speculating in stock, gold, and bonds, on account of themselves and their customers, in the manner stated in the complainant's bill, nor that they were engaged in desperate and hazardous adventures and speculations in the purchase and sale of such stock, gold, and bonds, in the cities of Baltimore and New York, and they deny that the loans made to them were for the purpose of enabling them to conduct, continue, and increase any such desperate and hazardous speculations. On the contrary, these defendants were informed by the said L. P. Bayne that the firm of Bayne & Co. were engaged in a safe and regular business as bankers and brokers, and they submit that the averment in said bill that some of the principal officers and agents of these defendants were personally interested in the purchases and sales of stocks, bonds, and gold by said Bayne & Co. is wholly irrelevant and impertinent, and that these defendants cannot be required to answer any such allegations.

And further answering, these defendants admit that the said firm of Bayne & Co. duly executed and delivered the assignment to trustees, particularly mentioned in said bill, and that the change of trustees

82 was duly made as avered, and that provision was made in said trust, as stated, for a first and second class of preferred creditors, and also generally for all the creditors of said firm; but these defendants have no knowledge as to the monies collected by said trustees or to the disposition thereof.

And these defendants, further answering, deny that the sureties which they received from Bayne & Co. were permitted to depreciate and waste by any neglect or failure on their part to convert the same into money at the maturity of the debts for which they were pledged, or any other neglect on their part; but they aver that such depreciation as took place in said securities were owing entirely to the failure of Bayne & Co., upon whose solvency the credit and value of some of said securities in part depended. And these defendants, and each one of them, does especially deny all and every allegation in said bill contained, touching any fraudulent motives, act, proceedings, agreements, or combinations on their part. And submitting that they have answered all the averments in said bill, (saving only such parts of said bill as are hereinbefore demurred to,) which they are advised that it is proper and material for them to answer, they pray to be hence dismissed with their costs, &c.

J. NEVITTE STEELE,

83 *Sol. for Nat. Union Bank of M'd at Balt'o.*

THEOS. B. HORWITZ,

Sol. for the National Mechanics' Bank of Balt'o.

W'M F. FRICK,

Sol. for the National Exchange Bank of Balt'o.

W'M W. TAYLOR,

President of the Nat. Union Bank of M'd at Balto'.

R. T. BALDWIN,

Pres't of the National Mechanics' Bank of Baltimore.

JOHN HURST,

Pres't of the National Exchange Bank of Baltimore.

We hereby certify that the within demurrer is, in our opinion, well founded in point of law.

J. NEVITT STEELE,

Sol. for National Union Bank.

THEOS. B. HORWITZ,

Sol. for the Nat. Mech'cs' B'k of Balt'o.

W'M F. FRICK,

Sol. for the Nat. Exchange Bank of Balt'o.

UNITED STATES OF AMERICA,

District of Maryland:

Be it remembered that on this 7th day of December personally appeared before the undersigned, a United States commissioner duly qualified and acting in and for the circuit and district aforesaid, William W. Taylor, the president of the National Union Bank of Maryland; Robert T. Baldwin, the president of the National Mechanics' Bank of Baltimore; and John Hurst, the president of the National Exchange Bank of Baltimore, who, being each duly sworn, did respectively say that the

84 within demurrer is not interposed for delay.

ISAAC BROOKS, JR.,

United States Commissioner in and for the District of Maryland.

UNITED STATES, *District of Maryland:*

Be it remembered that on this 7th day of December, 1868, personally appeared before the undersigned, a United States commissioner duly qualified and acting in and for the circuit and district aforesaid, William W. Taylor, president of the National Union Bank of Maryland; Robert T. Baldwin, president of the National Mechanics' Bank of Baltimore; and John Hurst, president of the National Exchange Bank of Baltimore, who, being duly sworn, did respectively say that the matters and things stated in the aforegoing answer within their knowledge are true, and the statements made upon information of others they believe to be true.

ISAAC BROOKS, JR.,
United States Commissioner in and for the District of Maryland.

And on the said seventh day of December, in the year last aforesaid; the said William Bayne, Allen A. Chapman, and Horatio R. Riddle, by their solicitors aforesaid, filed in the circuit court here the following answer, to wit:

85 *Answer.*

To the hon'ble the judges of the circuit court of the United States within and for the district of Maryland, sitting in equity:

The joint and several answers of William Bayne, Allen A. Chapman, and Horatio R. Riddle, three of the defendants to the bill of complaint of Joseph B. Stewart, for himself, and all others who may hereafter join him in the prosecution of this suit against them in this honorable court exhibited.

These respondents, saving all right and manner of exception to the said bill of complaint, for answer hereunto, say that they have no personal knowledge, nor have ever been informed, save by the complainant's said bill, and cannot, therefore, set forth as to their belief, or otherwise, as to the fact or circumstances of the said judgment debts alleged to be due by the said Bayne & Co. to the said complainant; or the alleged indebtedness of the said Leonard Huyck, late president of the Merchants' National Bank of Washington City, to the said complainant; or of the judgment alleged to have been rendered therefor in favor of said complainant in the supreme court of the district of New York; or of the alleged indebtedness of the said Bayne & Co. to the said Huyck on account stated; or of the alleged assignment of the said
86 Huyck's interest in said account to said complainant for a valuable consideration; or of the said alleged proceedings, after said assignment on the part of the complainant, against the said Bayne & Co. in the supreme court of the State of New York; or of the said defence of bankruptcy interposed in behalf of the said Lawrence P. Bayne in bar of said proceedings as alleged in said bill; or of the alleged assignment by said Huyck to the said complainant of all the right, title, and interest of him, the said Huyck, in the schedule or list of creditors of said Bayne & Co. as exhibited and filed by the said Lawrence P. Bayne, with his said petition for the benefit of the bankrupt law, as set forth in said bill; or as to the indebtedness, as alleged, of the said Charles H. Stewart to the said complainant, for which said complainant claims to hold the acceptances of said Bayne & Co. to a large amount; but of all said allegations, matters, and things set forth in said bill, so far as the same may be material and pertinent to the merits of this

cause, these respondents pray that the complainant may be required to furnish complete and satisfactory proof.

These respondents, further answering, admit that the three banks named in said bill, to wit, the National Union Bank of Maryland, the National Mechanics' Bank of Baltimore, and the National Ex-
87 change Bank of Baltimore, are banking associations organized under and by virtue of the act of Congress known as "the national banking law," and that the said defendants, Lawrence P. Bayne, John Honeywell, and William T. Hough, were bankers and brokers engaged in business in the city of Baltimore under the name and style of Bayne & Co., but they have no personal knowledge other than that which is accessible to the public at large in regard to the extent and character of the business carried on by the said Bayne & Co. with the said banks, or the amount of capital stock paid in. Of the several banks named in said bill, they are informed, and believe it to be true, that in the course of the business transactions between the said banks and the said Bayne & Co. the said banks severally loaned to the said Bayne & Co. large amounts of money and securities, and that such loans were used and absorbed by the said Bayne & Co., together with other means and securities in their hands, in their said business as bankers and brokers; but whether said loans were properly in excess of the limit allowed to said banks by the said national banking law, and in violation of the provisions of said law, as charged in said bill, these respondents are not prepared to say; nor are they advised as to the effect of said excessive loans, if any were made, or of said alleged violation of the law, if any there was, upon the rights of said banks or the liability of said
88 Bayne & Co., but respectfully submit the same as a question for the consideration and determination of this honorable court; but these respondents do not believe it to be true, and, therefore, do not admit that said loans were made by the said banks to the said Bayne & Co. for the purpose of being used by them in stock speculations and risks in which any of the principal officers and agents of said banks were personally interested, as is implied in said bill, or for any other improvident or improper purpose; nor can these respondents answer as to what knowledge was possessed by said banks or their said officers and agents as to the business of said Bayne & Co., or the uses to which said loans were applied.

These respondents admit that, on or about the 3rd day of May, 1866, the said defendants, Lawrence P. Bayne, John Honeywell, and William T. Hough, trading under the firm of Bayne & Co. as aforesaid, failed in business and became insolvent, and made an assignment by deed duly executed and recorded in the clerk's office of the superior court of Baltimore City, of all the property, real and personal, belonging to them individually, or as partners in the firm of Bayne & Co., to William Bayne, Oscar King, and Charles W. Boteler, also named as defendants in the said bill, as trustees upon trust, for the benefit of their creditors, with certain preferences as therein set forth, but for
89 greater certainty in regard thereto these respondents crave leave to refer to the copy of said deed, and of the schedule thereto annexed, already filed in this cause. And these respondents further admit that the said Oscar King and Charles W. Boteler, two of the trustees named in said deed, failing to give bond with security for the faithful discharge of their duties as such, in the time and manner required by the laws of the State of Maryland, upon certain proceedings had in the superior court of Baltimore City, upon the equity side thereof, in which said proceedings James C. Kennedy, appointed receiver on the part of

the United States of the said Merchants' National Bank of Washington City, was complainant, upon the application of the said Kennedy the said King and Boteler were removed and displaced from their said trust, and these respondents, Allen A. Chapman and Horatio R. Riddle, were, with the consent of the said Kennedy, appointed and substituted, by order of said court, in the stead of said King and Boteler, as trustees, and, together with this respondent, William Bayne, all having duly bonded, as required by law, jointly entered upon the duties of their said trust; and referring, as they crave leave to do, for greater particularity and certainty in this behalf, to the deed itself, and the schedule thereto annexed, for a statement of the provisions of the same, and of the preferences and classes of creditors thereby created, and of the du-
90 ties imposed upon them as trustees, these respondents admit that large collections have been made by them of the assets conveyed by said deed, and for the benefit of the parties interested therein, and they aver that they are at all times ready and willing to account for the same, and for their administration of said trust, whenever they shall be decreed so to do, or shall be called on by any person entitled.

With respect to the allegations contained in said bill that the bulk of the assets belonging to said firm of Bayne & Co. were pledged with the said banks named in the said bill, to wit, the National Union Bank of Maryland, the National Mechanics' Bank of Baltimore, and the National Exchange Bank of Baltimore, consisting, as is alleged, of collaterals and securities in the various amounts specified in said bill, to cover loans made to, and debts due from, the said Bayne & Co., by and to said banks, which loans and debts are alleged to be illegal and void, these respondents deny all personal or particular knowledge of the matter and things so alleged and set forth, though they believe it to be true, and therefore admit that a large amount of assets, securities, and collaterals were so pledged by the said Bayne & Co., prior to their failure and insolvency as aforesaid, with the said banks, in the course of their regular business transactions and dealings with the same, and
91 submitting the question of the alleged illegality of the said transactions, in whole or in part, for the consideration of this honorable court. These respondents further say that they are informed and believe that the whole amount of the assets, collaterals, and securities, so pledged, as alleged, with the said banks, was never sufficient to pay the debts for which they were actually pledged, and they do not believe it to be true, and therefore do not admit, but deny, that said assets, collaterals, and securities, so pledged as aforesaid, were of much greater valuation and amount than the loans and indebtedness they were designed to cover, or that the same were suffered to waste and depreciate by the neglect and improvidence of the said banks with which they were pledged, as is alleged and set forth in said bill.

These respondents are informed and believe it to be true that, since his said insolvency and assignment as aforesaid, the said Lawrence P. Bayne has been adjudged a bankrupt upon his own petition, but for greater certainty in relation thereto crave leave to refer to the records of this honorable court for the proceedings had in violation thereto.

These respondents admit the execution of an agreement, as stated in said bill, between them, as trustees of the said firm of Bayne & Co., and the said National Union Bank of Maryland, the said National Mechanics' Bank of Baltimore, and the said National Exchange Bank of Baltimore, on the 23rd day of June, 1868, whereby, in considera-
92 tion of the sum of one hundred dollars paid to them as such trustees by each of said banks, these respondents, as trustees, as-

signed, sold, and set over all the securities, assets, and collaterals held by said banks, respectively, belonging to or received from Bayne & Co., and all and singular the equity of redemption and of reversionary interest in the same, on the part of said Bayne & Co., to the said banks, but for greater certainty in regard thereto these respondents crave leave to refer to the copies of said agreements with said banks respectively, already filed in this cause, or which shall be hereafter produced. And these respondents further say that, with respect to the motion, on the part of the said banks, for desiring or entering into said agreement, further than is obvious and patent on the face of the transaction, and requiring no explanation, these respondents have no personal knowledge, but leave the same to be answered by the proper parties, the officers of said banks; but these respondents do not believe, and therefore do not admit, that there was anything improper or fraudulent in such motion or in the transaction, and they particularly deny all and any and all manner of fraudulent motion, intention, combination, or conspiracy on their own part, as is falsely and injuriously alleged in said bill, for the truth and facts in regard to said transaction were and are; and these respondents severally aver that, being well aware that the whole amount of assets, securities, and collaterals held by said banks severally, belonging to or received from said Bayne & Co.,
93 was largely inadequate to cover the actual indebtedness of said Bayne & Co. to said banks respectively, and that said assets and securities, and the equity of redemption or residuary interest in the same of the said Bayne & Co. were, therefore, perfectly worthless or valueless to these respondents as trustees, and that nothing could possibly be realized from the same for the purposes of their said trust, or the benefit of the creditors, preferred or general, of said Bayne & Co., and being offered, by each of said banks, the sum of one hundred dollars for a release of said equity of redemption or residuary interest, these respondents, being fully satisfied of the above, and having consulted counsel upon the subject, and being advised of their perfect right to enter into such agreement, and that, under the circumstances, said sum of three hundred dollars (one hundred from each of said banks) would be a clear gain to the trust fund in their hands and so much saved for the creditors, these respondents accepted said consideration and executed said agreement of the 23rd of June, 1868, with said banks, the legality and propriety of which they believe cannot be questioned.

These respondents further admit the fact of the release of said Lawrence P. Bayne by the said banks on the 23rd day of June, 1868; but as to the particulars attending the execution of said release or the consideration, if any, given therefor, these respondents have no knowledge, having had no participation in the same. But that said release
94 was procured by or through the contrivance of these respondents, as is falsely and scandalously alleged in said bill, these respondents particularly deny, and say that said release was a transaction between the said Lawrence P. Bayne and the said banks, and that the consideration therefor, if any, in no shape or form, proceeded from these respondents, and that the contrary allegations in the said bill in this behalf are false in every particular.

And as to the further pretension set up in said bill, that the effect of said release so given by the said banks to the said Lawrence P. Bayne, the consideration for which is falsely alleged to have been paid by these respondents, was to release all the stocks, bonds, and collaterals held as security or in pledge by the said banks for the indebtedness of the said Lawrence P. Bayne or Bayne & Co., to them respectively, which said

stocks and securities, together with all the equity of redemption and residuary interest of the said Bayne & Co. in and to the same were, for a valuable consideration, assigned and released by these respondents, as trustees, to the said banks, as hereinbefore recited and fully set forth, so as to make the same assets of Bayne & Co. and properly subject to the payment of the debt and demands of the complainant, if any he have, which these respondents do not admit, and of other creditors of Bayne & Co., these respondents submit that the same being a
95 question for the consideration of this hon'ble court they are not called to answer particularly thereto, but that they are advised that such pretension is utterly without foundation in law or equity as it is without semblance of justice or honesty, and they further say that if such were the effect of the action of said banks in relieving Bayne as aforesaid, as is alleged in said bill, the benefit thereof would have enured to these respondents as trustees, and they have already released to the said banks all their interest in said assets, and that the complainant has and can have no interest in the same.

And as to the further allegations in said bill that the dealings of the said banks with the said Bayne or Bayne & Co. were in violation of the provisions of the act of Congress known as the "national banking law," and particularly in regard to the excessive loans charged to have been made to the said Bayne & Co. by the said banks, over and above the limit allowed by said law, these respondents, not admitting any of the facts in relation thereto to be as represented in said bill, say that they are not advised as to the effect of said alleged excessive loans, or other pretended violations of law, if proven, but respectfully submit the same as a question for the determination of this honorable court, and that, in the event that the effect of such dealings should be decided to be as alleged in said bill, a release of the securities held by said banks belonging to or received from said Bayne & Co. for all amounts loaned
96 by said banks in excess of the limit imposed by the provisions of the law, the terms of their respective charters, and the amount of their respective paid-in capital stock, the benefit would have enured to these respondents as trustees, and that they have already, by their said recited agreement with said banks of the 23rd of June, 1868, released any right, title, or interest which they might otherwise claim in said assets, collaterals, and securities pledged with said banks as aforesaid, and that the said complainant has no interest in the same.

These respondents further answering say that they do not know how far the specific purposes to which the said alleged loans made by the said banks to the said Bayne & Co. were to be applied by the said Bayne & Co. were within the knowledge of said banks, but leave the same to be answered by the proper parties, the officers of said banks; but these respondents do not believe it to be true, and therefore do not admit, that any of said officers were interested in the object to which said loans so obtained were applied or in the adventures in which they were used, and the allegations of the bill in this particular and the references to the supposed forfeitures and penalties incurred by said officers, directors, and stockholders by virtue of the 53rd section of the national banking law they are advised are irrelevant and impertinent, even if they were true, which these respondents do not admit.

97 With respect to the allegations in said bill that these respondents are not proper and competent persons to act as trustees of Bayne & Co. and have charge of the assets of the same, these respondents, referring to the proceedings hereinbefore recited, had in the superior court of Baltimore City, upon the equity side thereof, say that two

of them, to wit, the said Allen A. Chapman and Horatio R. Riddle, were appointed and substituted as such trustees by order of said court, instead of Oscar King and Charles W. Boteler, named in the deed of trust but who had failed to bond in the time and in the manner required by the laws of Maryland; that said Horatio R. Riddle was appointed upon the application and said Allen A. Chapman with the consent and approbation of James C. Kennedy, receiver on the part of the United States of the Merchants' National Bank of Washington City, by whom said proceedings were instituted, and that the said Allen A. Chapman and Horatio R. Riddle, together with their co-trustee, William Bayne, the other of these respondents, having all duly bonded, as required by law, for the faithful discharge of their duties as trustees, jointly entered upon their duties as such by direction of said court. They admit that said William Bayne is a brother of said Lawrence P. Bayne, and that

98 he was at one time president of said Merchants' National Bank of Washington City; but the said William Bayne denies, and the said Allen A. Chapman and Horatio R. Riddle believe his denial to be true, that he was concerned in granting the large loans from said bank to said Bayne & Co., complained of in said bill, or in the transactions which led to or resulted in the insolvency of said bank, the said William Bayne not being, nor having been for some time previous, president of said bank at the time when said loans were made and said transactions were entered into. They admit that said Allen A. Chapman is a director in the National Union Bank of Maryland, and that said Horatio R. Riddle was at one time cashier of the National Exchange Bank of Baltimore; but they severally deny that they, or either of them, by reason of their personal relations and associations, past or present, or from any other cause, have acted, or are now acting, or are disposed to act in any way to destroy or affect injuriously the rights of the complainant or any of the creditors of Bayne & Co., or that the said complainant has any just cause to allege that in their administration of their said trust these respondents have manifested or been influenced by any feeling adverse to his just rights or have been guilty of any partiality or impropriety in handling the assets, money, and property placed in their hands as trustees of Bayne & Co., nor is any single instance of

99 such alleged partiality and impropriety even suggested in said bill, although said charge is generally, and therefore scandalously and falsely, made.

And these respondents severally deny any and all manner of fraud, combination and confederacy, as is charged against them in said bill, or in any other manner, either in the particular transaction of the 23rd of June, 1868, between them as such trustees and the said banks, or in general, or that said transaction was in derogation or violation of the just rights of the complainant or of any others the creditors of said Bayne & Co., or that said transaction was fraudulent or void, for the reasons alleged, or for any other reasons, or that, by reason of the premises or any of the matters and things alleged in said bill, or for any other cause these respondents should be enjoined or hindered from proceeding in the administration of their said trust, collecting the assets conveyed to them for the purposes of them, and making distribution thereof among the parties entitled, in the manner and amounts prescribed by said deed from Lawrence P. Bayne, John Honeywell and William T. Hough, of the 5th of May, 1868, hereinbefore referred to, and whereby said trust was created.

And these respondents aver their readiness and willingness both now and at all times, when properly called upon or decreed so to do, to ren-

der a full and just account of the affairs of said trust and of all assets belonging thereto in their hands, but they severally deny that
100 they are under any necessity or obligation to account to this complainant, as demanded in said bill, inasmuch as it is not even pretended in said bill that the assets or trust funds in their hands are more than sufficient, if so much, to satisfy the claims of the creditors legally preferred, of the first class, and to a small extent, as is alleged, those of creditors of the second class, as designated and preferred in and by said deed of trust, and the said complainant does not, and does not in his said bill assume to belong to either of said classes of creditors so preferred, or to impeach the validity of said deed of trust, and therefore has no interest whatever in the funds now in the hands of these respondents, as such trustees, even if he be a creditor at all of said Bayne & Co., as he alleges, but which these respondents do not admit.

And these respondents, further answering, say that there are now pending in the circuit court for Baltimore City certain proceedings in equity to which these respondents are parties defendants, instituted long before this suit was brought, by a certain Robert B. Bolling, of Virginia, claiming to be a creditor of said Bayne & Co., which said proceedings have for their object to vacate and set aside said deed of trust or assignment made by the said Lawrence P. Bayne, John Honeywell, and William T. Hough for the benefit of their creditors, and the preferences thereby created, as fraudulent and void, and that the said
101 Robert B. Bolling ought to be, but is not, made a party to this suit, and these respondents except to said bill of complaint on this account, and set up the pending of said proceedings to whatever effect it may avail.

And these respondents further say that Albert N. Bastable and Gilbert N. Bastable, trading as A. N. Bastable & Co., Alexander Kirkland, Robert R. Kirkland and Daniel Chase, trading together with Allen A. Chapman, one of these respondents, as Kirkland, Chase & Co., Samuel Turbolt, W. M. Mayenburg, John J. Chancellor, John Deitz, O. Brehme, William Bell and Martha his wife, William D. Jones and Richard L. Brown, trading as William D. Jones & Co., and certain other persons, trading as Conway, Haughton & Co., Oscar King and Thomas A. Waters, are all of them creditors of the first class legally preferred in said deed of trust under which these respondents are acting, and whose rights are therefore necessarily and directly sought to be injuriously affected by said bill, and that most if not all of them are citizens residing within this district, and that they and each of them ought to be but are not made parties to the bill in this cause, and for this these respondents except thereto.

And these respondents deny that by reason of anything in his said bill contained, or otherwise, the complainant is entitled to any of the relief, general or particular, prayed therein, as against these
102 respondents, and in especial that he is entitled to an account and discovery as prayed for against these respondents having no interest therein, or to an injunction to inhibit these respondents from proceeding in the execution and administration of their said trust, which these respondents submit would be a great hardship and injustice to the legally preferred creditors of said Bayne & Co., who, by these proceedings of said complainant, are further hindered and delayed from receiving the money justly due them, and for which they have been waiting for a period of over two years, or to an order for the removal of the assets now in the hands of these respondents to those of a receiver, to be appointed by this honorable court, as is prayed for in said

bill, or of an assignee in bankruptcy, for which proceeding there is not even a case stated or attempted to be shown in said bill, nor do any grounds in fact exist, inasmuch as the effect of said proceeding would be virtually to vacate and set aside the deed of trust under which these respondents are acting, and the legality of which in said bill is not even attacked, nor does said complainant in any of his said proceedings presume to call the same in question. Without this, that there are any other matters or things in said bill contained, material and necessary for these respondents to make answer unto, and not herein sufficiently answered, are true to the knowledge of these respondents or either of them.

Wherefore these respondents pray to be hence dismissed with
103 their reasonable costs in this behalf most wrongfully sustained.

S. T. WALLIS,
T. W. HALL, JR.,
Sol's of Resp'ts.

UNITED STATES OF AMERICA,
District of Maryland, to wit:

Personally appeared before the undersigned, a commissioner duly qualified and acting in and for the circuit and district aforesaid, the above-named William Bayne, Allen A. Chapman, and Horatio R. Riddle, and being duly sworn, say, that the matters and things stated in the foregoing answer, within their own knowledge, are true, and the statements made upon information of others they believe to be true.

WM. BAYNE.
ALLEN A. CHAPMAN.
H. R. RIDDLE.

Subscribed and sworn to before me, this 7th day of December, 1868.
[SEAL.] JNO. S. HANAU,
U. S. Comm'r.

And afterwards, to wit, on the 9th day of December, in the year aforesaid, the said Lawrence P. Bayne and John Honeywell appear in court here by Benjamin F. Herwitz, esquire, their counsel, and file in court here the following separate answers, to wit:

Answer of L. P. Bayne.

104 In the circuit court of the United States for the district of Maryland. In equity.

JOSEPH B. STEWART
vs.
THE NATIONAL UNION BANK OF MARYLAND and others.

The separate answer of Lawrence P. Bayne, one of the defendants in the above-entitled case, to the bill of complaint of Joseph B. Stewart against this defendant and others in this court exhibited.

This defendant, now and at all times hereafter, reserving to himself all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, imperfections and insufficiencies, in the said complainant's said bill of complaint contained, for answer thereunto, or unto so much and such parts thereof as he is advised are material for him, this defendant, to make answer to, answering says:

That he admits that Bayne & Co. were "lately a firm engaged in the

business of banking in the city of Baltimore," and that said firm was composed of John Honeywell, William T. Hough, and this defendant; and he says that at the time of the failure of said Bayne & Co. said complainant was not a creditor of said firm, but that since that time he has acquired possession of some claims against Bayne & Co., and
105 that he has in that way made himself a creditor of said firm; and this defendant admits that he applied for the benefit of the bankrupt law about the 30th day of May, 1868, before this honorable court, and that he was afterwards adjudged a bankrupt.

This defendant, further answering, admits that said firm of Bayne & Co. were bankers and stock brokers in the city of Baltimore, and were engaged in an extensive banking business, which included the purchase and sale of stocks, gold, and bonds.

This defendant, further answering, denies as utterly untrue that "the money so loaned and advanced to said Bayne & Co. by said banks or either of them," "and every part thereof, was loaned and advanced to enable said Bayne & Co. to conduct, continue, and increase desperate and hazardous adventures and speculations in the purchase and sale of stocks, bonds, and gold," as alleged in said bill; but, on the contrary, this defendant avers that the money so loaned by said banks to said Bayne & Co. was loaned and advanced to them for the purpose of carrying on their extensive banking business, and that the greater part thereof was used by them in the purchase of drafts on New York, United States bonds, and other securities, and gold for their regular customers, and in paying checks on said Bayne & Co., at their banking-house, and in making short loans, and that they have so expended, in one
106 week, hundreds of thousands of dollars.

This defendant, further answering, admits that said Bayne & Co. failed and became wholly insolvent on or about the 3rd of May, 1866, and that they were legally indebted to many persons.

This defendant, further answering, admits that said Bayne & Co. made, on or about the 5th day of May, 1866, a general assignment to William Bayne, Charles W. Boetler, and Oscar King, as trustees, of the whole of their goods, chattels, estate and effects, for the special and general purposes therein named; and that Allen A. Chapman and Horatio R. Riddle were substituted in the place of said Boetler and King.

This defendant, further answering, admits that said Bayne & Co. did pledge a large amount of their securities with said banks for loans and advances made by said banks in good faith to said Bayne & Co., to be used by them in the legitimate prosecution of their banking business, as aforesaid; and this defendant avers that the greater part of the money so loaned to said firm was used by them for the purpose of banking and brokering, as aforesaid.

This defendant, further answering, denies that the value of the securities so pledged as collateral security, by said Bayne & Co. to
107 said banks, exceeds the amount due by said firm to said banks for money advanced, as aforesaid, to said firm; and avers, with painful regret, that the amount at present so due by said Bayne & Co. to each of said banks is larger, by many thousands of dollars, than the value of the collaterals and securities so held by each of said banks.

This defendant, further answering, says that at the time when said securities were pledged by said Bayne & Co. to said banks, that this defendant deemed them ample security for the amounts for which they were so pledged to said banks, and he avers that a large part of the collaterals and securities so held by said banks were at once, upon the failure of said Bayne & Co., thereby largely depreciated in value, so that

it was impossible for said banks at any time since the failure of said firm to dispose of the same for a sum even approaching the amount for which they had been so pledged by said Bayne & Co. to said banks, and he denies that the same were "held, tied up, and permitted to depreciate and waste by the neglect and failure of said banks to convert the same into money," as alleged in said bill, but, on the contrary, avers that he believes that each of said banks has, in good faith, used every effort to increase the value of and to obtain the largest amount for said collaterals and securities, so as to diminish, as much as possible, the heavy loss of said banks by the failure of said Bayne & Co.

108 This defendant, further answering, denies that the assignment executed by said trustees of Bayne & Co. to said banks of their residuary interest and equity of redemption in said collaterals and securities, "did not prove satisfactory" to this defendant, as alleged in said bill, but, on the contrary, he was perfectly satisfied with the same, as said equity of redemption was entirely valueless, and the consideration paid therefor by said banks was a clear gain to the trustees of three hundred dollars for the trust estate of said Bayne & Co.

This defendant, further answering, says that the allegation in said bill that "several of the principal stockholders, directors, and officers of said respective banks kept in their own names, or in the names of others, or in blank, speculative accounts with said Lawrence P. Bayne or Bayne & Co.," is irrelevant and impertinent, and that he is not bound to answer the same, and therefore declines to do so.

This defendant, further answering, denies that said Bayne & Co. used money, capital, and securities of other persons improperly as charged in said bill.

This defendant, further answering, says that he does not know what amount over ten per cent. of the amounts loaned by said banks to said Bayne & Co. was paid to them by said firm, and that he has no

109 means of ascertaining, and therefore leaves the complainant to establish the same by proof so far as he desires to reply thereon.

This defendant, further answering, says that if it were in his power to furnish such an account as he is called upon for by the complainant that it would take several large volumes to contain the same, and he avers that it is impossible for such an account to be stated, because a large amount of the money so borrowed was loaned to Bayne & Co. upon memorandum checks which have, in great part, been destroyed, and of which no record was kept; yet, nevertheless, this defendant is willing, if this court should adjudge the complainant entitled to have such account, to furnish the same as far as to do so lies in his power, and he further states that the books of said Bayne & Co. have long since passed out of the possession of said firm, and this defendant would not, therefore, have the means in his power of endeavoring to render any correct account of transactions so extensive and complicated. And this defendant positively denies all and all manner of fraud with which he is, or said firm are, charged by said bill. And this defendant prays that he may be hence dismissed, with his reasonable costs in this cause wrongfully sustained, and as in duty, &c.

L. P. BAYNE.

BENJ. F. HORWITZ, *Sol. for Bayne.*

110 UNITED STATES OF AMERICA,
District of Maryland, ss:

I hereby certify that on this 8th day of December, 1868, before me, the subscriber, a United States commissioner, duly qualified and acting

in and for the circuit and district aforesaid, personally appears Lawrence P. Bayne, the defendant within named, who, being by me duly sworn, doth dispose and say that he has read the aforegoing answer, and that the matters and things therein stated as being within his own knowledge are true, and that the statements made upon information he believes to be true.

ISAAC BROOKS, JR.,
United States Commissioner in & for the Dist. of Maryland.

Answer of John Honeywell.

In the circuit court of the United States for the district of Maryland.—In equity.

JOSEPH B. STEWART
vs.
THE NATIONAL UNION BANK OF MARYLAND and others.

The separate answer of John Honeywell, one of the defendants in the above-entitled case, to the bill of complaint of Joseph B. Stewart, against this defendant and others, in this court exhibited.

111 This defendant now, and all times hereafter, reserving to himself all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, imperfections, and insufficiencies in the said complainant's said bill of complaint contained, for answer thereunto or unto so much and such parts thereof as he is *is* advised are material for him, this defendant, to make answer to, answering, says:

That he admits that Bayne & Co. were "lately a firm engaged in the business of banking in the city of Baltimore;" and that said firm was composed of Lawrence P. Bayne, William T. Hough, and this defendant; and he says, that at the time of the failure of said Bayne & Co., said complainant was not a creditor of said firm, but that since that time he has acquired possession of some claims against Bayne & Co.; and that he has, in that way, made himself a creditor of said firm, and he admits that said Bayne applied for the benefit of the bankrupt law about the 30th day of May, 1868, before this honorable court, and that he was afterwards adjudged a bankrupt.

This defendant, further answering, admits that said firm of Bayne & Co. were bankers and stock brokers in the city of Baltimore, and were engaged in an extensive banking business, which included the purchase and sale of stocks, gold, and bonds.

This defendant, further answering, says that he does not know
112 that at one time "The National Mechanics' Bank of Baltimore" loaned said Bayne & Co. about the sum of $600,000; and that the National Exchange Bank loaned said Bayne & Co. the sum of $300,000 and upwards; and that the National Union Bank of Maryland loaned said Bayne & Co., at one time, $500,000, as alleged in said bill, and thereupon can neither admit nor deny the same; and this defendant, further answering, says that he does not know that, after deducting all previous payments made by said Bayne & Co. to the said National Exchange Bank of Baltimore, there was still a debt of about $140,431 29 due to said bank from said Bayne & Co., on or about the 3rd day of May, 1866, and that this defendant does not know that after deducting all payments made to the said National Union Bank of Maryland, by said Bayne & Co., there was a balance due to said bank from said Bayne & Co. of about $287,641 31, on or about the 3rd of May, 1866; and that after

deducting all previous payments made to the said National Mechanics Bank of Baltimore, there was a balance due to said bank from said Bayne & Co. of $377,444 17, on or about the 3rd day of May, 1866, and therefore can neither admit nor deny the same.

This defendant, further answering, denies, as utterly untrue, that "the money so loaned and advanced to said Bayne & Co., by said banks, or either of them," "and every part thereof, was loaned or ad-
113 vanced to enable said Bayne & Co. to conduct, continue, and increase desperate and hazardous adventures and speculations in the purchase and sale of stocks, bonds, and gold," as alleged in said bill, but, on the contrary, this defendant avers that the money so loaned by said banks to said Bayne & Co. was loaned and advanced to them for the purpose of carrying on their extensive banking business; and that the greater part thereof was used by them in the purchase of drafts on New York, United States bonds, and other securities, and gold for their regular customers, and in paying checks on said Bayne & Co., at their banking-house, and in making short loans; and that they have so expended, in one week, hundreds of thousands of dollars.

This defendant, further answering, admits that said Bayne & Co. failed and became wholly insolvent on or about the 3rd day of May, 1866; and that they were largely indebted to many persons.

This defendant, further answering, admits that said Bayne & Co. made, on or about the 5th day of May, 1866, a general assignment to William Bayne, Charles W. Boetler, and Oscar King, as trustees, of the whole of their goods, chattels, estate, and effects, for the special and general purposes therein named; and that Allen A. Chapman and Horatio R. Riddle were substituted in the place of said Boetler and King.

114 This defendant, further answering, admits that said Bayne & Co. did pledge a large amount of their securities with said banks, for loans and advances made by said banks in good faith to said Bayne & Co., to be used by them in the legitimate prosecution of their banking business as aforesaid, and this defendant avers that the greater part of the money so loaned to said firm was used by them for the purpose of banking and brokering as aforesaid.

This defendant, further answering, denies that the value of the securities, so pledged as collateral security by said Bayne & Co. to said banks, exceeds the amount due by said firm to said banks for money advanced as aforesaid, to said firm, and avers, with sorrow and regret, that the amount at present so due by said Bayne & Co. to each of said banks is larger by many thousands of dollars than the value of the collaterals and securities so held by each of said banks.

This defendant, further answering, says that at the time when said securities were pleged by said Bayne & Co. to said banks, that this defendant deemed them ample security for the amounts for which they were so pledged to said banks, and he avers that a large part of the collaterals and securities so held by said banks were at once, upon the failure of said Bayne & Co., thereby largely depreciated in value, so
115 that it was impossible for said banks, at any time since the failure of said firm, to dispose of the same for a sum even approaching the amount for which they had been so pledged by said Bayne & Co. to said banks, and he denies that the same were "held, tied up, and permitted to depreciate and wase by the neglect and failure of said banks to convert the same into money," as alleged in said bill, but, on the contrary, avers that he believes that each of said banks has, in good faith, used every effort to increase the value of, and to obtain the largest

amount for, said collaterals and securities, so as to diminish as much as possible the heavy loss of said banks by the failure of said Bayne & Co.

This defendant, further answering, says that he is advised that the allegation in said bill that "several of the principal stockholders, directors and officers of said respective banks, kept in their own names, or in the names of others, or in blank, speculative accounts with said Lawrence P. Bayne, or Bayne & Co.," is irrelevant and impertinent, and that he is not bound to answer the same, and therefore declines to do so.

This defendant, further answering, denies that said Bayne & Co. used money, capital, and securities of other persons improperly, as charged in said bill.

This defendant, further answering, says that *that* he does not know what amount over ten per cent. of the amounts loaned by said banks to Bayne & Co. was paid to them by said firm, and that he has
116 no means of ascertaining, and therefore leaves the complainant to establish the same by proof, so far as he desires to rely thereon.

This defendant, further answering, says that if it were in his power to furnish such an account as he is called upon for by the complainant, that it would take several large volumes to contain the same; and he avers that it is impossible for such an account to be stated, because a large amount of the money so borrowed was loaned to Bayne & Co. upon memorandum checks, which have, in great part, been destroyed, and of which no record was kept; yet nevertheless this defendant is willing, if this court should adjudge the complainant entitled to have such account, to furnish the same as far as to so do lies in his power; and he further states that the books of said Bayne & Co. have long since passed out of the possession of said firm, and this defendant would not, therefore, have the means in his power of endeavoring to render any correct account of transactions so extensive and complicated. And this defendant positively denies all and all manner of fraud with which *his* is, or said firm are, charged by said bill. And this defendant prays that he may be hence dismissed with his reasonable costs in this cause sustained. And, as in duty, &c.

JOHN HONEYWELL.

BENJ. F. HORWITZ,
Sol. for Honeywell.

117 UNITED STATES OF AMERICA,
District of Maryland, ss:

I hereby certify that on this 8th day of December, 1868, before me, the subscriber, a United States commissioner, duly qualified and acting in and for the circuit and district aforesaid, personally appears John Honeywell, the defendant within named, who, being by me duly sworn, doth depose and say that he has read the aforegoing answer, and that the matters and things therein stated, as being within his own knowledge, are true, and that the statements made upon information he believes to be true.

ISAAC BROOKS, JR.,
United States Commissioner in & for the District of Maryland.

And afterwards, to wit, on the 4th day of January, in the year of our Lord 1869, the said Joseph B. Stewart, by his solicitors aforesaid, filed in court here the following order to enter general replication and joinder in demurrer, to wit:

In circuit court of U. S. for district of Maryland.

JOSEPH B. STEWART, PL'T'FF,
vs.
NATIONAL UNION BANK OF MARYLAND, National Mechanics' Bank of Baltimore, National Exchange Bank of Baltimore,
118 L. P. Bayne, Wm. T. Hough, John Honeywell, Wm. Bayne, A. A. Chapman, and H. R. Riddle, &c., defendants.
} In chancery.

Original, and amended, and supp'l bill.

The clerk will file a general replication—if not already done—to each of the answers in the above-entitled case, and enter the plaintiff's joinder, in demurrer filed, and the demurrer for argument.

JOHN S. HANAU,
A. B. MAGRUDER,
Sol's for Pl'ff.

Jan'y rules, 1869.

And afterwards, to wit, on the 12th day of June, in the year of our Lord 1869, the said Joseph B. Stewart, by his solicitor aforesaid, filed in court here the following amended bill, to wit:

In the circuit court of the United States for the district of Maryland.

JOSEPH B. STEWART
vs.
THE NATIONAL UNION BANK OF MARYLAND, the National Mechanics' Bank of Baltimore, the National Exchange Bank of Baltimore, Lawrence P. Bayne, John Honeywell,
119 William T. Hough, William Bayne, Allen A. Chapman, and Horatio R. Riddle.
} Amended creditors' bill.

To the honorable the judges of the circuit court of the United States for the district of Maryland.

Your orator, Joseph B. Stewart, a citizen of the State of New York, states that he heretofore filed before this honorable court his original creditors' bill against the above-named defendants, and upon which certain proceedings were subsequently had, as will more fully appear from the records on file to this honorable court.

That your orator now, and in addition to the matters and things in his said original bill alleged and charged, and by way of amendment and supplement thereto, the leave of this honorable court being first prayed and granted, and as matter of amendment and supplement, your orator states:

That since the filing of his said original bill, and pursuant to his statements and allegations therein made, that your orator has obtained and perfected a judgment at law against said firm of Bayne & Co., the individual member of which said firm are all named and sued in your orator's original bill, and have appeared and answered in this cause.

120 That said judgment is for the sum of $285,436 99, and was adjudged and determined by the supreme court of the State of New York, on or about the 5th day of January, 1869.

That after the rendition of said judgment, execution was issued thereon and placed in the hands of the sheriff of the city and county

of New York, and that the same was duly returned "nulla bona," and that the said judgment, and every part thereof, still remains unpaid, as will more fully appear by said judgment-roll and execution, a copy of which, duly certified according to law, is now exhibited and prayed to be taken as part hereof, marked Exhibit A, No. 2.

That by virtue of said judgment your orator has become, and is, a judgment creditor for that portion of his debt against said Bayne & Co. therein described, with execution returned thereon, with no property found wherewith to satisfy this thing or any part thereof.

Wherefore your orator prays that this amended bill and said judgment may be received as part of his original bill.

That your orator may have process against said defendants, requiring them to answer the same; that he may have all proper orders and process for sequestrating the assets, goods, and estate of said Bayne & Co. for the satisfaction of said judgment, and such further judgment
121 or decree as your orator may establish at law or in equity, and that the same may be levied upon any goods or chattels belonging to said Bayne & Co. in the hands of said defendants, or any of them, and that the same may be applied to the payment of the debt of your orator and other creditors.

Your orator charges and prays, as in his original bill he has charged and prayed, and for all general and special relief.

JO. B. STEWART.

A. B. MAGRUDER,
J. S. HANAU,
Sol's for Pl'ff.

Subscribed and sworn to this 11th day of June, 1869, before me.

JNO. S. HANAU,
U. S. Commissioner.

Which bill is thus endorsed, to wit:

"Leave granted to file this amended bill.

WILLIAM F. GILES."

The exhibit referred to in the aforegoing amended bill is as follows, to wit:

EXHIBIT A, No. 2.

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may
122 concern, greeting:

Know ye, that we, having examined the records and files in the office of the clerk of the county of New York and clerk of the supreme court of said State for said county, do find a certain judgment-roll there [NEW YORK SEAL.] remaining, in the words and figures following, to wit:

Supreme court, city and county of New York.

JOSEPH B. STEWART, PL'FF,
vs.
LAWRENCE P. BAYNE, WILLIAM T. HOUGH, and John Honeywell, defendants.

Summons for a money demand on contract.

To the defendants above named:

You are hereby summoned and required to answer the complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber, at his

office, No. 20 Nassau st., in the city of New York, within twenty days after the service hereof, exclusive of the day of such service; and if you fail to answer the said complaint within the time aforesaid, the plaintiff in this action will take judgment against you for the sum of two hundred and sixty-three thousand seven hundred and thirty-six $\frac{00}{100}$ dollars, with interest from the first day of December, one
123 thousand eight hundred and sixty-five, besides the costs of this action.

Dated June 9, 1868.

GEO. W. VAN SLYCK,
Plaintiff's Attorney.

Supreme court, city and county of New York.

JOSEPH B. STEWART
agst.
LAWRENCE P. BAYNE, WILLIAM T. HOUGH, John Honeywell, def'ts.

The above named plaintiff, by his attorney, Geo. W. Van Slyck, respectfully shows unto this court, and complains:

1st. That at the times and dates hereinafter mentioned the defendants were copartners, doing business as bankers in the city of Baltimore, Maryland, under the firm-name of Bayne & Co.

2nd. That on the first day of December, 1865, at the city of Baltimore, Md., an account was stated and adjusted by and between one Leonard I. Huyck and the defendants, a copy of which said statement is hereunto annexed and marked Schedule one, which this plaintiff prays may be taken as a part of this complaint; and upon such statement, and accounting a balance of two hundred and sixty-three thousand seven hundred and thirty-six $\frac{00}{100}$ dollars, was computed, and found to
124 be due from said defendants to said Huyck, which said sum the said defendants then and there promised to pay the said Huyck.

3rd. That no part of the same has been paid.

4th. And this plaintiff further show that on or about the 27th day of February, 1868, the said Leonard Huyck duly assigned and transferred all his claims and demands of what nature and kind soever, as well as in causes in equity which he then had against the said defendants to this plaintiff, including the amount above mentioned.

Wherefore this plaintiff demands judgment against said defendants for the sum of $263,736 $\frac{00}{100}$ dollars, with interest from the first of December, 1865, A. D., besides the costs of this action.

GEO. W. VAN SLYCK,
Attorney for pl'tiff, 20 Nassau st., N. Y. City.

CITY AND COUNTY OF NEW YORK, *ss:*

Joseph B. Stewart, the above named plaintiff, being duly sworn, says that the foregoing complaint is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

J. B. STEWART.

Sworn to before me this 9th day of June, 1868.

G. P. HAWES,
Notary Public, Co. N. Y.

Leonard Huyck, esq'r. in ac. with Bayne & Co.

	Dr.			
1865.				
May 31..	To draft on L. P. Bayne	184	920	30, 000
July 12..	" "	142	733 67	31, 000
28..	" "	126	135 53	6, 453 92
Aug. 22..	" "			50
"	" "	101	421 67	25, 000
Dec. 1..	" bal. int., a 6 % $437 24, a 7 3-10 %			531 97
	Cr.		2, 210 87	93, 035 89
1865.				
May 31..	By proc'ds. Maury & Co., accept., due June 18			14, 612 23
	June 28			10, 237
	July 18	184	1, 074 41	10, 185 43
	Aug 15			12, 879
	" 18	163	699 22	12, 859 13
	Bal. int. ac		437 24	
Dec. 1..	By balance of ac			32, 263 10
			2, 210 87	93, 035 89
1865.				
Dec. 1..	To balance due Bayne & Co.			32, 263 10

On hand for your ac:
6,000 City of New Albany Bonds.
400 sh's Mer. Nat. B'k Wash'n.
2,500 Wash'n, Alex., & G'town R. R'd.
Due Bayne & Co., 2,000 sh's Md. Anth. Coal Co. st'k.
E. & O. E.

BAYNE & CO.,
Per W. REMINGTON.

Baltimore, Md., Dec. 1st, 1865.

126 Supreme court, State and county of New York.

JOSEPH B. STEWART
against
LAWRENCE P. BAYNE, WILLIAM T. HOUGH, and John Honeywell.

The said defendant, Lawrence P. Bayne, answering the complaint herein, admits that at the date named therein the defendants were copartners as alleged.

Further answering said complaint defendant, save as above admitted, denies each and every allegation in said complaint.

For further and separate answer to said complaint said defendant alleges that before the commencement of this action, viz, on the 30th day of May, 1868, in the district court of the United States for the district of Maryland, he filed his petition for discharge from all his debts, in accordance with law for that purpose duly made and provided, and such proceedings were thereupon had, that afterwards, to wit, on the 8th day of July, 1868, this defendant was duly adjudged a bankrupt in said court.

Defendant further says that under said petition proceedings are still pending and being had for a final decree discharging defendant from all his debts.

127 Defendant further answering, says that the supposed indebtedness alleged in the complaint, if any such ever did accrue, accrued before the filing of said petition, and the said adjudication of bankruptcy, and said indebtedness, if any, was proveable against the estate of the defendant in the said matter of the proceedings in bankruptcy upon

said petition, and the same was not such as is excepted from the operation of a discharge in bankruptcy.

Wherefore said defendant prays that the complaint herein be dismissed with costs, and for such other and further relief as in equity the defendant is and shall be entitled to.

SULLIVAN & BROCKER,
Atty's for Defendant.

CITY AND COUNTY OF NEW YORK, *ss:*

Lawrence P. Bayne, said defendant, having first been duly sworn, makes oath that the foregoing answer is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

L. P. BAYNE.

Sworn to before me this 22nd of July, 1868.

JOHN F. DUDYH,
Notary Public, New York County.

N. Y. supreme court.

128 JOSEPH B. STEWART
ag'st
LAWRENCE P. BAYNE, WILLIAM T. HOUGH, and John Honeywell.

It is hereby consented that the above-entitled action, and the whole of the issues joined therein, be referred to W. J. Marrin, esq., counsellor-at-law, of the city of New York, as sole referee to hear and decide the same.

Dated New York, Nov. 6th, 1868.

GEO. W. VAN SLYCK,
Plff's Att'y, New York.
SULLIVAN & BROKEN,
Atty's for Def't Bayne.

At a special term of the supreme court of the State of New York, held at the City Hall in the city of New York, on the 7th day of November, 1868. Present: Hon. Josiah Sutherland, Justice.

N. Y. supreme court.

JOSEPH B. STEWART, PL'FF,
ag'st
LAWRENCE P. BAYNE, WILLIAM T. HOUGH, & John Honeywell, def'ts.

On reading and filing the foregoing consent, let W. J. Marrin,
129 esquire, counsellor-at-law, of the city of New York, be, and the same is hereby, appointed sole referee to hear and determine all the issues in the above-entitled action.

A copy:

CHA'S E. LOEW, *Clerk.*

New York supreme court.

JOSEPH B. STEWART
vs.
LAWRENCE P. BAYNE, WILLIAM T. HOUGH, and John Honeywell.

To the supreme court:

I, William J. Marrin, the undersigned, to whom by an order made the seventh day of November, 1868, it was referred to hear and determine the issues in the above-entitled action, do respectfully report, that I have been attended by the counsel for the plaintiff Stewart, and by the counsel for the defendant Bayne, and have taken proofs as to the allegations contained in the complaint and answer in said action, and I do find and report as follows, as matter of fact:

First. That the above named defendants were co-partners, doing business as bankers in the city of Baltimore, Maryland, under the
130 firm of Bayne & Company, as alleged in said complaint; that is to say, prior to and on the first day of December, 1865.

Secondly. That on the said first day of December, 1865, an account was stated and adjusted by and between one Leonard Huyck and the said defendants, of certain dealings and transactions theretofore had between the said firm of Bayne & Co. and the said Huyck, by which account it was declared and admitted by and between the said parties thereto, that the said Bayne & Co. were indebted to the said Huyck for four hundred shares of the capital stock of the Merchants' National Bank at the city of Washington, and two thousand five hundred shares of the capital stock of the Washington, Alexandria and Georgetown Railroad Company, which shares of stock of said bank and railroad I find were worth more than their par value of one hundred dollars per share, previous to and at the time of said account being stated and adjusted, and at the time of the demand hereinafter mentioned; and that said defendants were also indebted to said Huyck for six bonds of the city of New Albany, worth at the times above mentioned eighty per cent. of their par value of one thousand dollars per bond; all of which said shares of stock, and which said bonds, the said defendants had received from the said Huyck, to be held for his account, but had disposed of the same, and converted the same to their own use; and
131 by which account so stated and adjusted, it further appears that the said Huyck was then indebted to the said defendants in the sum of thirty-two thousand two hundred and sixty-three $\frac{10}{100}$ dollars on cash transactions, and for two thousand shares of capital stock of the Maryland Anthracite Coal Company, of the par value of twenty, and then worth fifteen dollars per share.

Thirdly. That on the twenty-second day of December, 1865, the said Huyck made a demand of said stocks from said defendants, who declined and failed to return the same, and stated that they had used them, and would return when they could recover them back.

Fourthly. That by balance struck on the said account there was due at the date thereof from the said defendants to the said Huyck, in money, the sum of two hundred and thirty-two thousand five hundred and thirty-six $\frac{90}{100}$ dollars; which, with interest from the said 22nd day of December, 1865, the date of said demand, up to the date of this, my report, amounts to the sum of two hundred and eighty thousand nine hundred and fifty $\frac{62}{100}$ dollars.

Fifthly. That prior to the commencement of this action, the said

Huyck assigned the aforesaid claim to the plaintiff in this action, Joseph B. Stewart, and that the said Huyck before such assignment, and
132 the said plaintiff since the same, have demanded the said money from the said defendants; and that neither to the said Huyck, nor to the said plaintiff, have the defendants or any of them returned the said stocks, or paid the said sum, or any portion of either thereof, but that said defendants are now indebted to the said plaintiff in the aforesaid sum and interest.

Sixthly. That after the commencement of this action, and on or about the fourth day of November, 1868, the defendant, Bayne, was discharged individually from all his debts, including the above, by a discharge made under the act of Congress of the United States of America, entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2nd, 1867.

And I do further find as matter of law:

First. That the defendants composing the said firm of Bayne and Company, excepting the said Bayne, as so individually discharged, are indebted to the said plaintiff in the sum of two hundred and eighty thousand nine hundred and fifty $\frac{62}{100}$ dollars.

Secondly. That judgment should be entered for the said sum in favor of the plaintiff and against the defendants, saving and reserving all individual liability of said Bayne as aforesaid.

All which is respectfully submitted.

Dated New York, this 7th day of December, 1868.

WILLIAM J. MARRIN, *Referee.*

133 New York supreme court, city and county of New York.

JOSEPH B. STEWART *vs.* LAWRENCE P. BAYNE, WILLIAM T. Hough, and John Honeywell. } Judgment.

The summons and complaint in this action having been duly and personally served upon the said defendant, Lawrence P. Bayne, and the said Lawrence P. Bayne having subsequently duly appeared in the said action by Sullivan and Bracken, his attorneys, and having put in his answer to the said complaint, and the issues joined upon the said complaint and answer having been thereupon duly referred by the order of this court to William J. Marrin, esq., as sole referee, to hear and determine the said issues and to report thereon; and the said referee, after hearing the said action, having duly made his report thereon, bearing date the seventh day of December, 1868; and it appearing by the said summons and complaint and answer, and by the said report of said referee, that his action is brought against the said defendants therein who formerly composed the firm or copartnership of Bayne & Co., as jointly indebted to the said plaintiff upon the contract of the said firm of Bayne & Co., set forth in the said complaint, and that
134 the judgment awarded and directed by the said referee in his said report is against the said defendants as so jointly indebted to the said plaintiff upon such joint contract.

And the said referee having in and by his said report found that on the first day of December, A. D. 1865, there was due from the said defendants, who then composed the said firm of Bayne & Co., to Leonard Huyck, in said complaint mentioned, the sum of two hundred and thirty-two thousand five hundred and thirty-six dollars and ninety cents, which sum, with the interest thereon up to the date of the said report

of the said referee, amounted to the sum of two hundred and eighty thousand nine hundred and fifty dollars and sixty-two cents; and that prior to the commencement of this action the said Huyck had assigned the aforesaid claim to the said plaintiff, and that demand for the payment thereof had been made both by the said Huyck and the said plaintiff, and that neither to the said Huyck nor to the said plaintiff have the said defendants, or any of them, returned the said stocks in the said complaint mentioned or paid the said sum of money or any portion of either thereof, but that the said defendants are now indebted to the said plaintiff in the said sum last mentioned and interest.

135 And the said referee, having also found in and by his said report that after the commencement of this action, and on or about the fourth day of November, A. D. 1868, the said defendant, Lawrence P. Bayne, was individually discharged from all his debts, including the debt sued for in this action, by a discharge granted to him on or about the day last aforesaid, under and by virtue of the act of the Congress of the United States entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2nd, 1867; and the said referee, having also found that the said defendants, composing the said firm of Bayne & Co., excepting the said Bayne as so individually discharged, as aforesaid, are indebted to the said plaintiff in the said sum of two hundred and eighty thousand nine hundred and fifty dollars and sixty-two cents; and that judgment should be entered for the said sum last mentioned in favor of said plaintiff, and against the said defendants, saving and reserving, however, all individual liability of the said Lawrence P. Bayne, as aforesaid:

Now, therefore, it is hereby considered and adjudged that the said plaintiff, Joseph B. Stewart, do recover of and from the said defendants, Lawrence P. Bayne, William T. Hough, and John Honeywell, lately composing the said firm of Bayne & Co., the said sum of two hundred and eighty thousand nine hundred and fifty dollars and

136 sixty-two cents, together with the sum of four thousand four hundred and eighty-five dollars and thirty-seven cents for his costs of this action, which said sums amount in the whole to the sum of two hundred and eighty-five thousand four hundred and thirty-six dollars and ninety-nine cents; and that the said plaintiff have execution therefor. But it is hereby expressly provided that, by reason of said discharge of the said Lawrence P. Bayne in bankruptcy, as aforesaid, the individual liability of said Bayne for the said sums of money, so recovered as aforesaid, is hereby saved and reserved and excepted.

(Indorsed:) Supreme court, city and county of New York. Joseph B. Stewart vs. Lawrence P. Bayne, William T. Hough, and John Honeywell. Judgment roll. Geo. W. Van Slyck, pl'ff's att'y, N. Y. City.

Recovery	$280,950 62
Costs	4,486 37
	285,436 99

"Filed January 5th, 1869, at 1 h. 30 m."

137 All which we have caused by these presents to be exemplified and the seal of our said supreme court to be hereunto affixed.

Witness, Albert Cardoza, justice, at the city of New York, the fourth day of June, in the year of our Lord one thousand eight hundred and sixty-nine, and of our independence the ninety-third.

[NEW YORK. SEAL.] CHAS. E. LOEW, *Clerk.*

I, Albert Cardoza, presiding justice of the supreme court of the State of New York, for the city and county of New York, do hereby certify that Charles E. Loew, whose name is subscribed to the preceding exemplification, is the clerk of the said county of New York, and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said supreme court, and that the attestation thereof is in due form.

Dated New York, June 4th, 1869.

ALBERT CARDOZA,
Justice New York Supreme C't, presiding.

STATE OF NEW YORK, *City and County of New York, ss:*

138 I, Charles E. Loew, clerk of the supreme court of said State, in and for the city and county of New York, do hereby certify that Albert Cardoza, whose name is subscribed to the preceding certificate, is presiding justice of the Supreme court of said State in and for the city and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

In testimony whereof I have hereto set my hand and affixed the seal of the said court this 4th day of June, 1869.

[NEW YORK. SEAL.] CHAS. E. LOEW, *Clerk.*

And afterwards, to wit, on the 16th day of June, in the year 1869, The Ocean National Bank of New York, by Joseph B. Stewart, esquire, its solicitor, filed in court here the bill and petition, to wit:

Bill and petition.

In the circuit court of the United States for the district of Maryland.

JOSEPH B. STEWART, COMPLAINANT,
vs.
THE NATIONAL UNION BANK OF MARYLAND,
139 The National Mechanics' Bank of Baltimore, The National Exchange Bank of Baltimore, Lawrence P. Bayne, John Honeywell, William T. Hough, William Bayne, Allen A. Chapman, and Horatio R. Riddle, defendants.

To the honorable the judges of the circuit court of the United States for the district of Maryland:

Your orator, The Ocean National Bank, a citizen of the State of New York, being an association found and existing as a national bank under the national banking law, and doing business in the city of New York, brings this bill of complaint The National Union Bank of Maryland, The National Mechanics' Bank of Baltimore, and The National Exchange Bank of Baltimore, being each and all banking associations formed and existing under and by authority of said national banking law, doing business in the city of Baltimore, and Lawrence P. Bayne, John Honeywell, and William T. Hough, late parties doing business under the name and style of Bayne & Co., of the city of Baltimore, and William Bayne, Allen A. Chapman, and Horatio P. Riddle, trustees of said Bayne & Co., and each and all of the said defendants being citizens of the State of Maryland; thereupon.

Your orator, complaining, says that it is a creditor of said firm of Bayne & Co. by virtue of two certain bills of exchange, executed and delivered to your orator, as follows: The acceptance of said
140 Bayne & Co., dated about the twentieth day of April, 1866, payable fifteen days after date, for fifty thousand ($50,000) dollars; also the further acceptance of said Bayne & Co., dated the 25th day of April, 1866, for the sum of seven thousand ($7,000.) That both of said drafts or bills of exchange were drawn by Leonard Huyck on said Bayne & Co., as aforesaid, and the same were received by your orator as valid and good obligations to pay on the part of said Bayne & Co., by the autograph letter of said firm, addressed to your orator in that behalf.

Your orator states that neither of said drafts or bills of exchange were paid, nor any part thereof, but were both duly protested for non-payment.

That your orator afterwards instituted suit in the supreme court of the State of New York against said Bayne & Co., who appeared and answered thereto and made defence to said suit.

That your orator obtained judgment on said two bills of exchange, together with the interest and costs due and accrued thereon, amounting in all to the sum of 69,308 42. That execution was duly issued for the collection of said judgment according to law, and placed in the hands of the sheriff of the city and county of New York, and that the same was in due time returned "nulla bona" and unsatisfied, and
141 that no part of said judgment has been paid or secured, as will more fully appear by the certified record and judgment roll of said judgment, filed herewith and prayed to be taken as part of your orator's bill marked O, N, B, No. 1.

And your orator further states that it has been advised by the counsel of the tenor purport of the matters alleged, charged, and stated in the bill of complaint as a general creditor's bill, filed by Joseph B. Stewart against the several defendants therein named, as above entitled in your orator's bill, now submitted, and that your orator is also advised by its counsel of the relief and mode of relief prayed and demanded against said defendants in said bill; that your orator is advised that it is proper it should join as a co-complainant with said Stewart in the further prosecution of the said suit, and to that end offers and prays that your orator's bill may be received as a petition to be admitted as a party complainant with said Stewart in said creditor's bill, and in the further prosecution of the same; that your orator may be treated as a complainant therein for all purposes of relief.

And to the end of obtaining proper affirmative relief, your orator alleges and charges, as in the said bill of said Stewart is alleged and charged, and refers to the said allegations and charges as part of
142 this bill, and prays that the same and every part thereof may be treated as repeated herein.

And your orator prays that said defendant may by the proper process or subpœna of this honorable court be required to appear and answer this your orator's bill of complaint.

And your orator being a judgment creditor of said Bayne & Co., with execution returned "nulla bona," prays that he may have all proper relief as such against the said defendants and each and all of them, to the end of the payment of his debt.

And your orator prays as is prayed in the original and amended bill of the said Stewart, and for any such further relief to which your orator

as a judgment creditor may be entitled, and for all general and special relief.

The Ocean National Bank of the City of New York,
G. D. R. MARTIN,
As President.

J. B. STEWART,
Of Counsel for Complainant.

SOUTHERN DISTRICT OF NEW YORK,
City and County of New York, ss:

On this 15th June, 1869, personally appeared before me D. R. Martin, personally kown to me to be the president of the Ocean National
143 Bank in the city of New York, and made oath that he had read the foregoing petition by him subscribed, and that he knew its contents, and that the same is true of his own knowledge, except as to such matters as are therein stated to be on information or belief, and as to those matters he believed the same to be true.

R. E. SHTERETT,
U. S. Comm'r.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Kenneth G. White, clerk of the circuit court of the United States of America, for the southern district of New York, second circuit, do hereby certify, that I am well acquainted with the handwriting of R. E. Shterett, whose name is subscribed to the annexed jurat, and that the signature to the same is in his proper handwriting. And I do further certify, that he was at the time of signing the same a United States commissioner, duly appointed by the circuit court of the United States of America, for the southern district of New York, second circuit.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said circuit court, this 15th day of June, in the year of our Lord one thousand eight hundred & sixty-nine, and of the independence of these United States the ninety-third.

[SEAL.] KENNETH G. WHITE, *Clerk.*

144 Upon which the court passed the following order, to wit:

It is this 16th day of June, 1869, ordered that on consideration of the within petition, leave is granted to The Ocean National Bank of New York to be made a party complainant to the within mentioned bill of complaint.

WILLIAM F. GILES.

The exhibit referred to in the foregoing bill and petition is as follows, to wit:

EXHIBIT C, N, B, No. 1.

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye, that we, having examined the records and files in the office of the clerk of the county of New York, and clerk of the supreme court of said State for said county, do find a certain judgment-roll

{ NEW YORK. SEAL. } there remaining, in the words and figures following, to wit:

145 Supreme court, New York County.

THE OCEAN NATIONAL BANK OF THE CITY of New York, plaintiff, *against* LAWRENCE P. BAYNE, JOHN HONEYWELL, AND William T. Hough. } Summons for a money demand on contract.

To the defendants:

You are hereby summoned and required to answer the complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said complaint on the subscriber, at his office, No. 32 Pine st., in the city of New York, within twenty days after the service hereof, exclusive of the day of such service. And if you fail to answer the complaint within the time aforesaid, the plaintiff in this action will take judgment against you for the sum of fifty-eight thousand seven hundred and ten dollars, with interest upon 51,500 dollars, part thereof, from the eighth day of May, one thousand eight hundred and sixty-six, and upon 7,210 dollars, part thereof, from the 26th day of April, one thousand eight hundred and sixty-six, besides the costs of this action.

Dated June 12th, 1868.

JOHN SESSIONS,
Plaintiff's Att'y.

146 Supreme Court, city and county of New York.

THE OCEAN NATIONAL BANK OF THE CITY of New York *against* LAWRENCE P. BAYNE, JOHN HONEYWELL, AND William T. Hough.

The plaintiff complains against the defendants and shows to this court—

That since prior to the time or times hereinafter mentioned the plaintiff was, and still is, a corporation, organized under the banking laws of the United States for the general business of banking in the city of New York, and that at the same time or times the defendants were copartners, doing business in the city of Baltimore, in the State of Maryland, under the firm name of Bayne & Co.

That, as the plaintiff is informed and believes, on the twentieth day of April, 1866, at said city of Baltimore, the defendants, under their said firm name, accepted in writing a draft or bill of exchange, drawn by Leonard Huyck, as president of the Merchants' National Bank of Washington, D. C., and dated at the city of New York on the 18th day of April, 1866, requiring said defendants to pay to the order of one Charles H. Stewart fifty thousand (50,000) dollars fifteen days after sight thereof.

147 That said Stewart endorsed said bill to the plaintiff, who caused it to be duly presented to said defendants for payment at the time when the same was payable, but payment thereof was refused, whereupon the same was duly protested for non-payment upon the eighth day of May, 1866.

That plaintiff is still the lawful holder and owner of said bill, and that there is now justly due thereon from the defendants the full sum of fifty thousand dollars, with three per cent. added thereto, being the rate of damages allowed by law for non-payment thereof, making the sum of fifty-one thousand five hundred dollars, and interest thereon from the 8th day of May, 1866.

Second. For a further and separate cause of action the plaintiff shows: That on the 25th day of April, 1866, at the city of New York, said Leonard Huyck, as president of said Merchants' National Bank, made and delivered to the plaintiff a bill of exchange, whereby the defendants, under said firm name, were required to pay to the order of the cashier of the plaintiff seven thousand (7,000) dollars.

That on the 26th day of April, 1866, the said bill was duly endorsed by said cashier, was presented to said defendants at their office in
148 Baltimore for payment, and payment thereof was refused, whereupon the said bill was on the same day duly protested for non-payment.

The plaintiff, upon information and belief, avers that at the time of the presentment of said last-named bill the defendants had in their hands, belonging to the said Merchants' National Bank, moneys sufficient to have fully paid and satisfied the same.

The plaintiff is still the lawful holder and owner of said bill of exchange, and there is now justly due thereon from the defendants the full sum of seven thousand dollars, ($7,000,) with three per cent. added thereto damages for non-payment as aforesaid, making together the sum of seven thousand two hundred and ten dollars, and interest thereon from said 26th day of April, 1866.

Wherefore the plaintiff demands judgment against the defendants for the sum of fifty-eight thousand seven hundred and ten dollars, with interest as stated above, and the costs of this action.

JOHN SESSIONS,
Plaintiff's Attorney, 32 Pine st., New York.

CITY AND COUNTY OF NEW YORK, *ss:*

D. Randolph Martin, being duly sworn, says that he is the pres-
149 ident of the plaintiff—the said Ocean National Bank—that he has read the foregoing complaint, and knows the contents thereof, and that the same is true, of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

D. R. MARTIN.

Sworn to before me this 12th day of June, 1868.

JOHN S. RAY,
Notary Public, 32 Pine st., New York.

Supreme court, county and State of New York.

THE OCEAN NATIONAL BANK OF THE CITY OF New York
against
LAWRENCE P. BAYNE, JOHN HONEYWELL, & William T. Hough.

The said Lawrence P. Bayne answers the complaint herein, and says that subsequent to the date of the several bills of exchange, specified in said bill of complaint before the commencement of this action, viz, on the 30th day of May, 1868, in the district court of the United States

for the district of Maryland, he filed his petition to be adjudged a bankrupt and duly discharged from all his debts in accordance with law, and such proceedings were thereupon had; that on the eighth day of
150 July, 1868, this defendant was, in and by said court, duly adjudged a bankrupt, and said petition is still pending and proceedings being had therein, in accordance with law, with a view to a final discharge of this defendant from all his debts.

And this defendant, further answering, says that the bills of exchange specified in said complaint were dated, and the facts in relation thereto alleged in said complaint as affecting defendant's liabilities or indebtedness thereon, occurred before the filing by this defendant of said petition for his discharge, and the indebtedness of defendant in said bills is one that is proveable against the estate of the defendant in the proceedings under said petition, and was not such as might be excepted from the operation of a discharge in bankruptcy.

Wherefore defendant prays that the complaint herein be dismissed, that the plaintiffs be directed to prove their debt against the estate of the defendant in the proceedings instituted under his petition in bankruptcy, and for such other and further relief as to the court may appear just, and for his costs herein.

SULLIVAN & BRACKEN,
Att'ys for def't Bayne, 29 Wall st., N. Y.

151 CITY AND COUNTY OF NEW YORK, *ss:*

Lawrence P. Bayne, being duly sworn, deposes and says he is one of the defendants above named; that he has read the foregoing answer, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated on information and belief, and as to those matters he believes it to be true.

L. P. BAYNE.

Sworn to before me this 22nd day of July, 1868.

JOHN F. DOYLE,
Notary Public, N. Y. County.

Supreme court circuit, 4th day of December, 1868.

THE OCEAN NATIONAL BANK OF NEW YORK
against
LAWRENCE P. BAYNE ET AL.

Present, Hon. G. G. Barnard, justice.

I hereby certify that this cause was this day tried without a jury, the defendant not appearing, and judgment allowed by the court for the plaintiff for the sum of $69,305 42.

CHAS. E. LOEW, *Clerk.*

Fees paid.

152 In the supreme court circuit, city and county of New York.

THE OCEAN NATIONAL BANK OF THE CITY of New York
ags't
LAWRENCE P. BAYNE, JOHN HONEYWELL, and William T. Hough.

The above-entitled action having been duly reached, and called in its order on the calendar of this court, at a circuit thereof, held before the

undersigned, one of the justices of said court, at the court-room thereof, at the county court-house, in the city of New York, on the 4th day of December, A. D. 1868, upon the issues joined in said action by the answer of the defendant, Lawrence P. Bayne, the plaintiff appearing, and the defendant, Lawrence P. Bayne, having been called, and not answering, trial by jury having been duly waived, and the plaintiff having duly submitted the proofs of the allegations of the complaint, I find that the following facts were established before me:

First. That on the 18th day of April, 1866, the said plaintiff was and ever since has been and still is a corporation duly organized and created under and by virtue of an act of the Congress of the United States,
153 entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3rd, 1864, and the several acts amendatory thereof.

Second. That during the months of April and May, 1866, the said defendants, Lawrence P. Bayne, John Honeywell, and William T. Hough, were copartners doing business in the city of Baltimore, in the State of Maryland, under the firm name and style of Bayne & Co.

Third. That on or about the 18th day of April, 1866, one Leonard Huyck, as president of the Merchants' National Bank of Washington, D. C., duly made and drew his certain draft or bill of exchange, and dated the same at the city of New York on said 18th day of April, 1866, and directed the same to the said defendants by and under their said firm name and style of Bayne & Co., and therein and thereby requested the said defendants to pay to the order of Charles H. Stewart, fifteen days after the said date of said draft or bill of exchange, the sum of fifty thousand dollars, and delivered the said draft or bill to said Charles H. Stewart; that the said Charles H. Stewart thereupon endorsed and delivered said draft or bill to the plaintiff, who thereupon became the holder and owner thereof.

154 That the said plaintiff caused the said draft or bill of exchange to be duly presented and shown to the said defendants at the said city of Baltimore, on or about the 20th day of April, 1866, for acceptance, and that thereupon the said defendants, as such copartners as aforesaid, did by writing upon said draft or bill of exchange duly accept the same; that the said plaintiff upon the day when the same, according to the terms thereof, became due and payable, caused the same to be duly presented to said defendants for payment, and payment thereof was then and there duly demanded of them, which was refused; whereupon the same was duly protested for non-payment.

Fourth. That the plaintiff is still the lawful holder and owner of said draft or bill of exchange, and that there is now justly due and owing thereon from said defendants composing the said firm or copartnership of Bayne & Co., to the plaintiff, the just and full sum of fifty thousand dollars, together with three per cent. added thereto, being the rate of damages allowed by the statutes of the State of New York for such non-payment as aforesaid, making together the sum of fifty-one thousand five hundred dollars, together with interest thereon from the 8th
155 day of May, 1866, and that such interest from the date last aforesaid to the date of this finding, amounts to the sum of nine thousand two hundred and seventy-nine (9,279) dollars and seventeen (17) cents.

Fifth. That on the 25th day of April, 1866, the *the* said Leonard Huyck, as such president of the said Merchants' National Bank of Washington, D. C., duly made his certain other draft or bill of exchange,

and dated the same on the day last mentioned, an directed the same to the said defendants by and under their said firm name of Bayne & Co., and therein and thereby requested the said defendants to pay to the order of the cashier of the said plaintiff the sum of seven thousand dollars, and delivered the said last-mentioned draft to the said plaintiff.

That, thereupon, and on or about the 26th day of April, 1866, the said plaintiff caused the said last-mentioned draft or bill of exchange duly endorsed by their said cashier to be presented and shown to the said defendants at their office in Baltimore, Maryland, for payment, and payment thereof was then and there duly requested, which was refused, whereupon the said bill was on the same day duly protested for non-payment, and that at the time of the presentation of the said last-mentioned draft or bill of exchange, the said defendants had in their
156 hands, belonging to the said The Merchants' National Bank of Washington, D. C., moneys sufficient to have fully paid and satisfied the same.

Sixth. That the said plaintiff is still the holder and owner of the said last-mentioned draft or bill of exchange, and that there is now justly due and owing thereon from the said defendants composing the said firm of Bayne & Co. the just and full sum of seven thousand dollars, together with three per cent. added thereto, being the rate of damages allowed by the statutes of the State of New York for such non-payment as aforesaid, making together the sum of seven thousand two hundred and ten dollars, together with interest thereon from the said 26th day of April, A. D. 1866, and that such interest from the date last aforesaid to the date of this finding amounts to the sum of thirteen hundred and sixteen (1,316) dollars and twenty-five (25) cents.

It is suggested that after the presentation of said drafts or bills for payment, and before the commencement of this action, and on or about the 30th day of May, A. D. 1868, the defendant, Lawrence P. Bayne, filed his petition in bankruptcy in the district court of the United
157 States for the district of Maryland, wherein he prayed to be adjudged a bankrupt and to be discharged from all his debts, under the act of Congress of the United States of America entitled "An act to establish an uniform system of bankruptcy throughout the United States," approved March 2nd, 1867, and that such proceedings were thereupon had; that on or about the 8th day of July, 1868, after the commencement of this action, the said defendant, Lawrence P. Bayne, was duly declared a bankrupt by said court pursuant to the provisions of the said act of Congress, and that such proceedings were also thereupon had that afterwards, and on or about the 4th day of November, A. D. 1868, the said defendant, Lawrence P. Bayne, was individually discharged from his debts by a discharge duly made by said court in said proceedings under and pursuant to the provisions of said act of Congress.

I do, nevertheless, find and determine as matter of law, that the plaintiff is entitled to judgment against said copartnership firm and the persons composing the same, for the sums and amount so due to the plaintiff. And I do determine and adjudge that the plaintiff, The Ocean National Bank of the city of New York, is entitled to recover against said defendants, Lawrence P. Bayne, John Honeywell, and William T. Hough, as members of and composing the said firm of Bayne &
158 Co., the amount of the said drafts or bills of exchange hereinbefore mentioned and described, together with the damages and interest thereon, and which amount in the whole to the sum of sixty nine thousand three hundred and five dollars and forty-two cents,

($69,305\frac{42}{100}$,) together with the costs of this action, saving and reserving, however, all individual liability of the said Lawrence P. Bayne, upon or by virtue of the judgment in this action by reason of his aforesaid discharge in bankruptcy.

And I do hereby direct the entry of a judgment in favor of the said plaintiff and against the said defendants accordingly.

Dated New York City, December 4th, 1868.

(Signed) GEO. G. BARNARD.

In the supreme court, city and county of New York.

THE OCEAN NATIONAL BANK OF THE CITY OF New York, plaintiff,
against
LAWRENCE P. BAYNE, JOHN HONEYWELL, AND William T. Hough, defendants.

The above-entitled action having been duly reached and called in its order on a calendar of this court, at a circuit thereof held before one of the justices of this court, at the court-room thereof, at the county
159 court-house in the city of New York, on the 4th day of December, 1868, upon the issues joined in said action by the answer of the defendant, Lawrence P. Bayne, said defendant, Lawrence P. Bayne, having been duly called and not answering, trial by jury having been duly waived and the plaintiff having duly submitted the proofs of the allegations of the complaint, and the said justice having found as matter of fact that the allegations of said complaint are true, that the defendants were copartners under the firm name and style of Bayne & Co as in said complaint alleged, and that the plaintiff is entitled to recover the sum of sixty-nine thousand three hundred and five (69,305) dollars and forty-two (42) cents, that it was suggested before the said justice that after the presentation of the drafts or bills in said complaint mentioned, and before the commencement of this action, and on or about the 30th day of May, A. D. 1868, the defendant, Lawrence P. Bayne, filed his petition in bankruptcy in the district court of the United States for the district of Maryland, wherein he prayed to be adjudged a bankrupt and to be discharged from all his debts, under the act of Congress of the United States of America entitled "An act to establish an uniform system of bankruptcy throughout the United States," approved March 2nd, 1867.

And that such proceedings were thereupon had, that on or
160 about the 8th day of July, 1868, after the commencement of this action, the said defendant, Lawrence P. Bayne, was duly declared a bankrupt by said court pursuant to the provisions of said act of Congress, and that such proceedings were also thereupon had that afterwards, and on or about the 4th day of November, A. D. 1868, the said defendant, Lawrence P. Bayne, was individually discharged from his debts by a discharge duly made by said court in said proceedings under and pursuant to the provisions of said act of Congress.

Wherefore the said justice did find and determine as matter of law that the plaintiff is entitled to judgment against the said copartnership firm and the persons composing the same, for the sum and amount so due to the plaintiff. And that the plaintiff, the said Ocean National Bank of the city of New York, is entitled to recover of the defendants Lawrence P. Bayne, John Honeywell, and William T. Hough, as member of and composing the said firm of Bayne & Co., the said sum of sixty-

nine thousand three hundred and five dollars and forty-two cents, together with the costs of this action—saving and reserving all individual liability of the said Lawrence P. Bayne upon the judgment in this action determined by his discharge in bankruptcy aforesaid, and directed the entry of judgment in favor of said plaintiff against said defendant accordingly.

161 Now, on motion of John Sessions, esq., attorney for the plaintiff, it is ordered and adjudged that the plaintiff in this action do recover of the defendants, as members composing the copartnership of Bayne & Co., now or heretofore, the sum of sixty-nine thousand three hundred and five (69,305) dollars and forty-two (42) cents, together with seventeen hundred and eighty-nine (1,789) dollars and eighty-four (84) cents costs and disbursements, making together the sum of seventy-one thousand and ninety-five $\frac{26}{100}$ dollars ($71,095 26.)

Subject, however, to the effect of the said discharge of the defendant Lawrence P. Bayne under and pursuant to the said act of Congress of the United States entitled "An act to establish an uniform system of bankruptcy throughout the United States," approved March 2nd, 1867, as to his individual liability and the property acquired by him individually since the filing of his petition in bankruptcy.

(Endorsed:) "Filed February 18, 1869, at 3h. 28ms."

All which we have caused by these presents to be exemplified, and the seal of our said supreme court to be hereunto affixed.

162 Witness. T. W. Clerke, justice at the city of New York, the twelfth day of May, in the year of our Lord one thousand eight hundred and sixty-nine, and of our independence the ninety-third.

[SEAL.] CHAS. E. LOEW,
Clerk.

I, T. W. Clerke, presiding justice of the supreme court of the State of New York, for the city and county of New York, do hereby certify that Charles E. Loew, whose name is subscribed to the preceding exemplification, is the clerk of the said county of New York, and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the exemplification is the seal of our said supreme court, and that the attestation thereof is in due form.

Dated New York, May 12, 1869.

T. W. CLERKE.

I, Charles E. Loew, clerk of the supreme court of said State, in and for the city and county of New York, do hereby certify that T. W. Clerke, whose name is subscribed to the preceding certificate, is presiding justice of the supreme court of said State in and for the city
163 and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

In testimony whereof I have hereto set my hand and affixed the seal of the said court, this 12th day of May, 1869.

[NEW YORK SEAL.] CHAS. E. LOEW, *Clerk.*

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye, that we, having examined the records and files in the office of the clerk of the county of New York and clerk of the supreme

court of said State for said county, do find a certain execution and return thereon there remaining, in the words and figures following, to wit:

(NEW YORK) (SEAL.)

The people of the State of New York to the sheriff of the city and county of New York, greeting:

Whereas judgment was rendered on the eighteenth day of February, one thousand eight hundred and sixty-nine, in an action in the supreme court of the State of New York, between The Ocean National Bank of the city of New York, plaintiff, and Lawrence P. Bayne, John
164 Honeywell, and William T. Hough, defendants, in favor of the said plaintiff against the said defendants for the sum of seventy-one thousand and ninety-five $\frac{26}{100}$ dollars, as appears to us by the judgment roll, filed in the office of the clerk of the city and county of New York. And whereas the said judgment was docketed in your county on the 18th day of February, in the year one thousand eight hundred and sixty-nine, and the sum of seventy-one thousand and ninety-five $\frac{26}{100}$ dollars is actually due thereon: Therefore we command you that you satisfy the said judgment out of the personal property of said judgment debtors within your county; or if sufficient personal property cannot be found, then out of the real property in your county belonging to such judgment debtors on the day when the said transcript was so docketed in your county, or at any time thereafter, in whose hands soever the same may be, and return this execution, within sixty days after its receipt by you, to the clerk of the city and county of New York.

Witness, Hon. George G. Barnard, justice of said court, at the court-house in said city on the third day of May, one thousand eight hundred and sixty-nine.

JOHN SESSIONS,
Plaintiff's Attorney.

All which we have caused by these presents to be exemplified,
165 and the seal of our said supreme c to be hereunto affixed.

Witness, Albert Cardoza, justice at the city of New York, the fifth day of June, in the year of our Lord one thousand eight hundred and sixty-nine, and our independence the ninety-third.

CHAS. E. LOEW, *Clerk.*

I, Albert Cardoza, presiding justice of the supreme court of the State of New York, for the city and county of New York, do hereby certify that Charles E. Loew, whose name is subscribed to the preceding exemplification, is the clerk of the said county of New York, and clerk of said supreme court for said county, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify, that the seal affixed to the exemplification is the seal of our said supreme court, and that the attestation thereof is in due form.

Dated New York, June 5th, 1869.

ALBERT CARDOZA,
Justice N. Y. Supreme Court, presiding.

STATE OF NEW YORK,
City and County of New York, ss:

I, Charles E. Loew, clerk of the supreme court of said State in
166 and for the city and county of New York, do hereby certify that Albert Cardoza, whose name is subscribed to the preceding certificate, is presiding justice of the supreme court of said State in and for the

city and county of New York, duly elected and sworn, and that the signature of said justice to said certificate is genuine.

In testimony whereof, I have hereto set my hand and affixed the seal of the said court this 5th day of June, 1869.

[NEW YORK. SEAL.] CHAS. E. LOEW, *Clerk.*

And afterwards, to wit, on the 14th day of July, in the year 1869, the court here passed the following order, to wit:

Circuit court of the United States for the 4th circuit, for the district of Maryland.—In equity.

JOSEPH B. STEWART
vs.
The NATIONAL UNION BANK of Maryland, and others.

Ordered by the court this 14th day of July, 1869, that the demurrer filed in this cause be heard on Wednesday the 1st day of September next; and that the complainant in the mean time take the necessary steps to make the assignee of John Honeywell and William T. Hough, in bankruptcy, parties to this cause.

167 WILLIAM F. GILES.

And afterwards, to wit, on the 2nd day of September, in the year 1869, the said Joseph B. Stewart, by his solicitors aforesaid, filed in the circuit court here the following amended bill, to wit:

To the honorable judges of the U. S. circuit court for district of Maryland.—In chancery.

Your orator, Joseph B. Stewart, a citizen of the State of New York, files this his amended bill, leave of court for that purpose being first had and obtained, to his original bill, No. , now pending on the trial docket of this court against the defendants therein named, and against William F. Giles, jr., a citizen of the State of Maryland, who has been duly appointed assignee in bankruptcy of Lawrence P. Bayne, John Honeywell, and W'm T. Hough, who are parties defendant to the said original bill, and thereupon your orator, the said Joseph B. Stewart, complains and charges that the said Giles, assignee as aforesaid, is or may become entitled to receive and collect divers assets, securities, credits, and effects, and large sums of money due and owing to the said Bayne, Honeywell, and Hough, individually, and in their own separate right, out of which said assets and moneys your orator is justly

168 entitled to be paid and satisfied, sundry large sums of money due and owing to him by the said Bayne, Honeywell, and Hough, as appears by the proofs, transcripts of judgments, &c., filed with his said original bill, reference being had thereto for greater certainty.

And your orator prays that the said Giles, assignee as aforesaid, may be required to answer to all and singular the matters and things in the said original bill alleged, and especially may disclose what funds, securities, property, or moneys may have come or may hereafter come into his hands as assignee aforesaid, and report a true account thereof for the proper information and subsequent and final action of this court.

And your orator prays that he may have general relief in the premises and all such especial relief as the nature of his case may require.

And your orator, as in duty bound, &c.

JOS. B. STEWART.
By J. S. HANAN and
A. B. MAGRUDER,
Solicitors.

To the Hon. W'm F. Giles, judge of circuit court of U. S. for district of Maryland:

The petition of Joseph B. Stewart, complainant in the pending
169 chancery cause No. of the docket of this court, prays that he may have leave to amend his said bill by making new parties defendant thereto, being advised that the same is necessary to protect his interest in the premises. He prays that the assignees in bankruptcy of the individual members of the firm of L. P. Bayne & Co. and the assignee of said firm itself may be made parties defendant by such amendment by order of this court.

JOS. B. STEWART,
By HANAN & MAGRUDER, *Sol's.*

Upon which said amended bill is the following order, to wit:

It is ordered that the complainant have leave to amend his bill in this case by making new parties, and thereupon the said bill as amended and hereto annexed is ordered to be filed.

WILLIAM F. GILES.

And afterwards, to wit, on the 30th day of September, in the year 1869, on motion of the said Joseph B. Stewart, by his solicitors aforesaid, leave was granted by the court here to the said complainant to file an amended bill, and thereupon the said complainant, by his
170 solicitors aforesaid, filed in court here the following amended bill, to wit:

In the United States circuit court for the district of Maryland.

JOSEPH B. STEWART, COMPLAIN'T,
vs.
THE NATIONAL UNION BANK OF MARYLAND, The National Mechanics' Bank of Baltimore, The National Exchange Bank of Baltimore, and Lawrence P. Bayne, John Honeywell, and William T. Hough, late of the firm of Bayne & Co.; and William Bayne, Allen A. Chapman, and Horatio R. Riddle, trustees of said Bayne & Co.; and Conway, Slaughter & Co., John J. Chancellor, A. N. Bastable & Co., Thomas N. Walter, Mrs. Martha Bell, Samuel Turbett, John Deitz, W. M. Meyerberg, Kirkland, Chase & Co., Oscar King, William D. Jones & Co., O. Broehme & Co., and W'm Fell Giles, jr., defendants.

2nd amended general creditor's bill.

To the honorable the judges of the circuit court of the United States for the district of Maryland:

171 Your orator, Joseph B. Stewart, a citizen of the State of New York, for himself and for such other creditors or parties as have or hereafter shall join the prosecution of this suit, states:

That your orator heretofore filed his original and general creditors' bill against the defendants—The National Union Bank of Maryland, The

National Mechanics' Bank of Baltimore, The National Exchange Bank of Baltimore, Lawrence P. Bayne, John Honeywell, and William T. Hough, and William Bayne, Allen A. Chapman, and Horatio R. Riddle; and at a subsequent time, and by permission of the honorable court, your orator amended his said original, as will more fully appear by the reference to the record and orders in that behalf made and exhibited in this cause.

And your orator now, by way of further amendment to his said original and amended bill, the leave of this honorable court first being had and obtained, and as such further amendment your orator makes the "cestui qui trusts" of the said Bayne & Co., and their trustees, as named in the said deed of assignment in trust of the said Bayne & Co., executed on or about the 3rd day of May, 1866, as in said original bill alleged, which said parties defendants and "cestui qui trusts" as made known to your orator, by said assignment and as follows: Conoway, Slaughter
172 & Co., John I. Chancellor, A. N. Bastable & Co., Thomas N. Walters, Mrs. Martha Bell, Samuel Turbett, John Deitz, W. M. Meyerberg, Kirkland, Chase & Co., Oscar King, William D. Jones & Co., O. Broehme & Co., each and all of whom are made parties hereto, and to your orator's said original and amended bill.

But your orator at the same time begs to state, that each and all of said "cestui qui trusts," now prayed to be made defendants, are unknown to your orator, either as individuals or as firms, and wherefore he cannot name specifically the individual names of the members of said firms, but which he will insert when he can ascertain the same. That said parties being only known to your orator as described in said deed of assignment, your orator is not aware of the citizenship or place of residence of either of said parties, and therefore cannot state the same for the information of the honorable court, wherefore your orator assumes that the residence and citizenship of each of said parties is such as not to interfere with the jurisdiction of this honorable court, but reserves the fact, and for that purpose prays that if it shall, at any time, appear that any of said
173 named parties cannot be made defendants, for the want of proper citizenship or other cause, that the same may be stricken out as defendant or defendants.

And your orator further amending as to said new parties, alleges and charges, as in his original and amended bill he has alleged and charged, and prays that said defendants may each and all be required to answer, all and singular, the matters and things alleged in said original and amended bill, to the same extent as if the said matters and things so alleged and charged were herein repeated, and that this honorable court may make such order and decree as may be equitable and just, so far as the rights of said parties now made defendants, or either of them, are concerned.

And your orator, further amending his said original and amended bill, states that since the filing of said original bill, that the defendant Lawrence P. Bayne, who was then, as stated in said original bill, applying for the benefit of the bankrupt law, and was then declared a bankrupt, has since been discharged by this honorable court, sitting as a court in bankruptcy.

That no assets were shown by said Bayne other than the assets and property of the said firm of Bayne & Co., then and still in
174 the hands of said defendants, The National Union Bank, National Mechanics' Bank, and National Exchange Bank; but that by reason of the petition filed on the part of said Bayne, based upon the re-

lease so executed and delivered to said Bayne as a member of the said firm of Bayne & Co., as alleged in said original bill, and upon which petition and the said release being exhibited to this honorable court, or the district judge, sitting as a court in bankruptcy, the said three banks, by virtue of said release, and for no other reason or consideration, were ordered to be omitted, and henceforth were omitted from the list of creditors of said Bayne, or Bayne & Co., whereby your orator and other creditors of said Bayne & Co. were denied and deprived of the right or opportunity to contest the right of said banks, or either of them, to have, hold, or keep and appropriate the whole of the said $850,000, or thereabouts, of the assets and property of the said Bayne & Co., all of which will more fully appear by a copy of the petition of said Bayne, and the said release, made part thereof, and the order of his honor William F. Giles, granting the prayer of said petition, now referred to and made part hereof, marked Exhibit A B, No. 1.

175 And your orator, by way of further amendment, states and shows unto this honorable court, that, likewise, since the filing of said original bill, and since the discharge of said Bayne, that the other two members of said firm of Bayne & Co., to wit, John Honeywell and William T. Hough, but each for himself, has filed his separate petition before this honorable court, or its district judge, sitting as a court in bankruptcy, to be adjudged bankrupts, and to be discharged from all their debts and liabilities, as provided by law.

That these liabilities exhibited on the part of said Honeywell and Hough and their creditors named are the same creditors and liabilities as shown by said Bayne, and the assets and property as belonging to said Honeywell and Hough are the same as shown by said Bayne, and is, in fact, the assets and property of said Bayne & Co., to wit, the said $850,000, or thereabouts, of assets and property so illegally held by said banks as in said original bill alleged.

That upon petition of said bankrupts Honeywell and Hough being considered, the said district court, sitting as a court in bankruptcy, nominated and appointed the defendant, William Fell Giles, jr., as the assignee of said Honeywell and Hough, but did not name an assignee of, and for, said firm of Bayne & Co., which fact becoming known

176 to your orator, he filed a petition before the court in bankruptcy, praying for the proper order appointing a firm assignee for said Bayne & Co., when, at a subsequent time, an order to that effect was made; but such firm assignee has not yet been appointed, wherefore your orator is unable to make such firm assignee a party defendant, as should be done in order to have the proper parties to this suit, and to fully protect the rights of your orator and other creditors in the premises.

Your orator nevertheless makes the said William Fell Giles, jr., the assignee of said Honeywell and Hough, a party defendant, and states and charges as in his original and amended bill he has stated and charged, and prays that said assignee, so made defendant, may be required to answer and defend, and take such steps before this honorable court and otherwise as the rights and interests of your orator and other creditors of said Honeywell and Hough and the said Bayne & Co. may require.

And your orator prays for the U. S. writ of subpœna to issue to said parties now made defendant, requiring them, and each of them, to appear and answer the allegations in this amended and the said original and amended bill, and to abide such order or decree as to this honora-

177 ble court may seem just and proper, and your orator prays, as in

his original and amended bill he has prayed, and for all general and special relief, and as in duty bound he will pray.

JOS. B. STEWART.

MAGRUDER,
HANAN & STEWART,
Compl't's Sol's.

Subscribed and sworn to before me this 30th day of September, A. D. 1869.

ORLANDO F. BUMP,
Register in Bankruptcy.

The exhibit referred to in said amended bill is as follows, to wit:

EXHIBIT A B, No. 1.

In the district court of the United States for the district of Maryland.

IN THE MATTER OF LAWRENCE P. BAYNE, Bankrupt. } In bankruptcy.

To the honorable William Fell Giles, judge of the district court of the United States for the district of Maryland:

178 The petition of Lawrence P. Bayne respectfully repesents, that on the 30th day of May, A. D. 1868, he filed his petition in this court, sitting in bankruptcy, praying that he might be declared bankrupt, &c., &c.

At the same time he filed his schedule A and B, giving in detail the lists of his assets and liabilities. Among his creditors were certain banks of the city of Baltimore, hereinafter named, who were creditors to a very large amount, holding securities, which securities, however, were, and are, not nearly sufficient to pay the claims of the said banks.

Since the filing of said petition and schedules the said banks have executed a release to said petitioner, and in consideration thereof, and that the notice to the creditors may be correct in form and substance, and may not be cumbered by names of creditors who are no longer such, your petitioner prays that the names of said banks, to wit, The National Exchange Bank, National Union Bank, and The National Mechanics' Bank, may be omitted from the notice to the creditors and the warrant to the marshal, and to that end that they may be expunged from schedule A 2 of said petition; and, as in duty bound, &c.

LAWRENCE P. BAYNE,
By HENRY D. LONEY,
His Attorney.

June 25th, 1868.

179 *L. P. Bayne.*

UNITED STATES OF AMERICA,
DISTRICT OF NEW YORK,
City and County of New York, ss:

I, Lawrence P. Bayne, the petitioner above named, do hereby make oath that the statement contained in the foregoing petition subscribed by me are true, so far as the same are stated of my own knowledge,

184 SCHEDULE A 2

In the matter of John Honeywell and William T. Hough, bankrupts. Creditors holding securities.

Reference to ledger or voucher.	Names of creditors.	Residence & occupation.	When & where contracted.	Val. of securities. Dollars.	Cts.	Am't of debt. Dollars.	Cts.	Particulars.
	National Exchange Bank.	Baltimore Nat. Bank.	May, 1866. Baltimore.	60,000		140,431	23	Loan made to Bayne & Co., of which firm the petitioners, with L. P. Bayne, were the individual members.
	Nat. Union Bank of Md.	Baltimore Nat. Bank.	May, 1866. Baltimore.	140,000		287,641	31	Ditto.
	National Mechanics' Bank.	Baltimore Nat. Bank.	1866. Baltimore	130,000		377,444	17	Ditto.

JOHN HONEYWELL.
WILLIAM T. HOUGH.

185 In the district court of the United States for the district of Maryland.

IN THE MATTER OF JOHN HONEYWELL AND William T. Hough, bankrupts.

To the Hon. R. S. Matthews, Register in Bankruptcy:

The petition of John Honeywell and William T. Hough, bankrupts, respectfully shows that in schedule A 2, filed with their petition, they, by mistake, returned the value of the securities in the hands of the National Exchange Bank, the National Union Bank, and the National Mechanics' Bank, at a much higher rate than they were worth, and at the supposed value of the securities at the time they were pledged with said banks for the loans made by them in the said firm of Bayne & Co., and they respectfully beg to now amend said schelne A 2, so far as the same relates to the indebtedness due to the said banks and the securities held by them, and file herewith amended Schedule A 2.

JOHN HONEYWELL.
WILLIAM T. HOUGH.

Subscribed and sworn to before me this 18th day of February, A. D. 1869, by John Honeywell.

R. STOCKETT MATHEWS,
Register in Bankruptcy.

186 Subscribed and sworn to before me this 19th day of February, A. D. 1869, by William T. Hough, at New York City, in the State of New York.

I. T. WILLIAMS,
Register in Bankruptcy.

Petition granted and schedule filed.

R. S. MATHEWS, *Register.*

Mar. 16th, 1869.

And afterwards, to wit, on the 11th day of October, in the year 1869, the court filed the following opinion, and passed the following decree, to wit:

Opinion.

In the circuit court of the United States for the district of Maryland.

JOSEPH B. STEWART
vs.
THE NATIONAL UNION BANK OF MARYLAND,
The National Mechanics' Bank of Baltimore,
The National Exchange Bank of Baltimore,
Lawrence P. Bayne, and others.

The complainant in this case filed a general creditors' bill against the defendants, alleging, among other things, that he was and is
187 a creditor of Bayne & Co. to a large amount; that Bayne & Co. are bankrupts; that the said National Union Bank, the National Mechanics' Bank, and National Exchange Bank, are national banks organized under the act of Congress entitled "An act to provide a national currency," approved June 3d, 1864; that the 29th section of said act provides "that the total liabilities to any association, of any person, or of any company, corporation or firm, for money borrowed, including in the liabilities of a company or firm, the liabilities of the several members thereof, shall at no time exceed one-tenth part of the amount of the capital stock of such association actually paid; that on the 3rd of May, 1866, the loans to said Bayne & Co. by said National Union Bank amounted to $287,641 31; by said National Mechanics' Bank, to $377,444 17; and by said National Exchange Bank, to $140,431 29; which said loans were made with the knowledge and permission of the directors of said banks, and were not within the reservation or provisos of said 29th section; that the largest part of the assets of Bayne & Co. are deposited with and held as collateral security by said national banks, herein defendants, for said illegal loans, so made as aforesaid by them to said Bayne & Co.; that of such collaterals the National Mechanics' Bank held $385,864, the National Union Bank, $300,139, and the National Exchange Bank, $164,250; that the capital stock of the said National Mechanics' Bank is $600,000, of the said National Union Bank, $1,200,000, and of the National Exchange
188 Bank, $400,000; that said loans to said Bayne & Co., by said banks, were on the 3rd of May, 1866, largely in excess of the 10 per cent. of their respective capitals actually paid in, and therefore contrary to law, and a fraud on the rights of complainant, and other creditors of Bayne & Co. The bill prays for a discovery of the amount and nature of said collaterals, also of all transactions between said Bayne & Co. and said banks, and for an order of this court transferring said collaterals so held by said banks to the assignee in bankruptcy of said Bayne & Co., for adjustment of rights between their creditors; for a decree in favor of complainant and for general relief.

To all that part of said bill which attacks these loans made by the said banks on the ground that they are void by the 29th section of the act of 1864, and prays for a decree of this court ordering them to be transferred to the assignee of Bayne & Co., the said banks demur; and for cause of demurrer shew, "that according to the true construction of the act of 1864 the complainat has no right to call upon this court to examine into and decide upon the matters above demurred to, but the

same are examinable only at the instance and suit of the Government of the United States and its authorized officer, and in conformity with the provisions of said act." "And that the said matters, as alleged, do not affect the validity of the said loans by these defendants to the said Bayne & Co.; nor do they destroy, invalidate, or affect the title
189 of these defendants to the said collaterals and securities."

The issues raised by the demurrer are two: first, the right of complainant to the relief sought in his bill against the said banks; and second, the validity, under the said act of Congress, of the loans so as aforesaid made by the said banks to Bayne & Co.

There is also a prayer in the bill for a decree for an account to be filed by William Bayne, Allen A. Chapman, and Horatio R. Riddle, trustees, under a deed of trust executed by Bayne & Co. on the 5th day of May, 1866, but with that part of the bill we have nothing to do at present. The case has been heard alone upon the bill of complaint and demurrer filed by the banks, and the question to be now decided by the court is, does the bill shew such a case as entitles the complainant to the relief he seeks against the said banks? He prays for a decree against the said banks, compelling them to transfer and hand over to the assignee in bankruptcy of said Bayne & Co. all the collaterals which said banks received from Bayne & Co. as security for the loans made to them from time to time by said banks. Now, could such a decree be passed by this court, and such relief granted, in view of the fact that Bayne & Co. had by a deed of trust, (as I have shewn,) on the fifth day of May, 1866, conveyed all their assets, of whatever kind, to trustees for the benefit of their creditors; that the deed was executed before the passage of the bankrupt act, and more than six months before Bayne, Hough,
190 and Honeywell filed their petitions to be declared bankrupts? That deed has not been assailed, although allegations are made in the bill against the said trustees, and they are charged with fraud and collusion. Now it appears to me that if the complainant be right in his view and construction of the 29th section of the general banking law of 1864, "that all loans made to any one beyond the amount prescribed in said section are absolutely void, and that said banks have no title to any collateral security given to them for such loans," yet he is not entitled to the relief he now seeks. Under such construction of the law the title to these collaterals passed by the deed of trust; and if the trustees have failed duly to execute the trust confided to them, a court of equity would remove them and substitute others in their place; and if the bill filed for that purpose made the banks parties, the court could decree such relief as would be equitable and just under the circumstances.

This disposes of that part of the case now submitted to me, and I might rest my decision here. But as the second issue raised by the demurrer has been argued at length, and with great ability, by the complainant and the learned counsel engaged in the cause, and as I have carefully examined all the authorities referred to, I shall state briefly the conclusion to which I have arrived as to the true construction of the said 29th section, and of the rights of the parties to
191 such loans. Now, it is observable that this section only provides "that the total liabilities to any association of any person or of any company, corporation or firm, for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed one tenth part of the amount of the capital stock actually paid in." It contains no penalty and no provision "that such loans shall be void." In the very next section, (section 30,)

which regulates the rate of interest, it is provided that "the knowingly taking, receiving, reserving, or charging a rate of interest greater than aforesaid, shall be held and adjudged a forfeiture of the entire interest, &c." And in case a greater rate of interest has been paid, the person or persons paying the same, or their legal representatives, may recover back, in an action of debt, twice the amount of the interest thus paid from the association taking or receiving the same.

So in section 31, where it is enacted "that every association in certain cities shall always keep on hand, in lawful money, 25 per centum of the aggregate amount of its notes in circulation and its deposits. And if any association whose lawful shall fall below the amount aforesaid required to be kept on hand shall fail for thirty days after notice to make good such reserve, the Comptroller of the Currency, with the concurrence of the Secretary of the Treasury, may appoint a
192 receiver to wind up the business of such association."

See also section 52, in which all transfers of the notes, bonds, and other evidence of debt owing to any association, and of any and all property belonging to the association, made after the commission of an act of banktruptcy, &c., are declared null and void.

Now, when you read these sections and find no such provision of forfeiture in the 29th section, but find in the 53rd section provision is made "That if the directors of any association shall knowingly violate any of the provisions of this act, all the rights, privileges, and franchises of the association derived from this act shall be thereby forfeited; such violation shall, however, be determined and adjudged by a proper district or circuit court in a suit brought for that purpose by the Comptroller of the Currency, in his own name, before the association shall be declared dissolved;" the conclusion seems to be irresistible that Congress never intended by the 29th section to forfeit all loans made in excess of the amount specified in the 29th section, no matter whether they were made through inadvertance or by mistake, for the forfeiture provided for in the 53rd section depends upon the guilty knowledge of officers making it.

The general banking powers are granted by the 8th section of the act in the following terms: "And exercise under this act all such
193 incidental powers as shall be necessary to carry on the business of banking by discounting and negotiating promissory notes, drafts, bills of exchange, coin, and bullion; by loaning money on personal security, and by obtaining, issuing, and circulating notes according to the provisions of this act." The grant of banking powers is full and ample in this section, and in view of the whole act it appears to me that section 29, like many other sections of the said act, is directory only, and for its violation there is no forfeiture but the one provided for in the 53rd section. That section, it is admitted, applies to all violations of the 29th section with guilty knowledge, and there can be no clearer rule for the interpretation of statutes than to hold that, where Congress has expressly provided a penalty for the commission of any act, you are not so to construe the statute as to add, in addition, any common law forfeiture or penalty. So that it appears to me that, although these loans made by defendants, the three banking associations above named, exceeded in amount one-tenth part of the amount of their respective capital stocks actually paid in, the said loans are not void, and if said associations were now in court, seeking to recover the same, I should have great difficulty in permitting Bayne & Co., or any one claiming through them, to set up this defense. But can there be any doubt of this principle that, where contracts are executed, even if the court would not
194 have enforced them, the court will leave the parties where it finds

them, giving aid or relief to neither? The learned complainant in his very full argument seemed to feel the force of this principle and to try to escape from its application. He contended that it did not apply to this case, and that, if these defendants could not sustain an action in a court of law on these contracts, the court must overrule the demurrer. The cases to which he referred I have examined, and it does not appear to me that they sustain this position. In the case of Bank of United States vs. Owens and al., the court decided that the bank could not recover upon a note which had been discounted at more than six per cent. interest.

The bank charter forbid the taking a greater rate of interest than six per cent., but it did not declare such a contract void. The court held such a contract void on general principles, and courts could not lend their aid to enforse such contracts. I have examined the charter of the bank, and it contains no clause imposing any penalty whatever on the taking of more than six per cent. interest. It was, then, a prohibition without any specific penalty, and Congress must be supposed to have left the violation of the section to the common law penalty of a denial by the courts to enforce such a contract.

The case of Leavitt vs. Palmer, 3 Comstock, 19, was decided on similar grounds. In that case the court held that the notes issued by an institution in violation of the provisions of the general banking
195 law of New York, which might circulate as a currency, and the deed of trust to secure the same, were void. It did not touch the question of the validity of the original advance by the London house.

In the case of the The Seneca County Bank vs. Lamb and others, 26 Barbour, 595, only decides what the Supreme Court had decided in 2 Peters, that a bank that has discounted paper, taking more than six per cent. interest, cannot recover upon the paper thus discounted. The court, in their opinion, says: "It will leave the parties to such a contract where it finds them."

To the same effect is the case of The Bank of Chillicothe vs. Swayne and others, 8 Ohio, 289, and the case of The Miami Exporting Company vs. Clark, 13 Ohio, 1.

In the case of Albert and wife vs. The Savings Bank of Baltimore, 2 Md., 160, the court only decided that although the contract was executed, yet the cestui qui trust whose property had been assigned unlawfully to the bank, could have relief in a court of equity. That is not this case.

The case of Coppell vs. Hall, 7 Wallace, 542, only decided that upon a contract for the purchase of cotton, in violation of the non-intercourse acts, during the late civil, there could be no recovery in the courts of the United States.

196 The case of Hagan vs. Walker, 14 Howard, 29, is not applicable to this case; and the case of Chaney vs. Duke, 19 Gill and Johnson, 11, is, if applicable at all, in favor of the defendants. The court of appeals in that case held that the mere omission of the vendor of a slave to give a bill of sale as required by the act of 1817, ch. 112, will not prevent his maintaining an action for the purchase money.

I consider the law of this case settled by the decisions to which I shall now referer:

In the case of North vs. The United States Trust Company, 19 Barbour, 569, the court held that a person who has borrowed money from a savings institution, upon his promissory note, secured by a pledge of bank stock, is not entitled to an injunction to prevent the prosecution

of the note, on the ground that the savings bank was prohibited by its charter from making loans of that description.

So in the case of Tracy vs. Talmadge, 4 Keenan, 162, the court held while the certificates of deposit given in violation of law were void, yet that the plaintiff could recover whatever the stocks sold were worth at the time of the sale, leaving the contract of sale, so far as it had been executed by payment or its equivalent, undisturbed; and in the case of Bates & Hines vs. The Bank of the State of Alabama, 2 Alabama Reports, 459, the court decided that a clause in the bank charter
197 similar to the 29th section of the act of 1864 was directory merely, and that if it be disregarded, no one party to its violation can take advantage of it.

The case of Harris vs. Runnels, 12 Howard, 80, is directly in point, and sustains the view I have taken of the construction of the 29th section. That was an action brought to recover the price of slaves brought into Mississippi, in contravention of a statute of that State regulating the importation of slaves. The 4th section provided that no slaves should be brought into the State without a previous certificate, &c., being obtained. The 6th section declared that both the seller and buyer of such slaves shall pay one hundred dollars for every slave so sold and imported in violation of the law. The Supreme Court say that "the two sections, considered conjunctively, seem to us to imply that the penalty only, without any other loss to either the seller or buyer, was to be inflicted;" and the court held that the contract of sale was not void. Now, although by the bill as originally filed it would appear that the said banks held collaterals to a larger amount than their loans and advances, yet by the amended schedule and agreement of counsel in reference to the same, it is clearly shown that the advance made by the banks to Bayne & Co. far exceed in amount the value of the collaterals they received from said firm. The court, for the reasons I have given, will sustain the demurrer filed by the banks, and will sign a decree
198 dismissing the bill as to them.

Decree.

In the circuit court of the United States for the district of Maryland.

JOSEPH B. STEWART *vs.* THE NATIONAL UNION BANK OF MARYLAND, The National Mechanics' Bank of Baltimore, The National Exchange Bank of Baltimore, Lawrence P. Bayne, and others.	Creditors' bill.

This case coming on to be heard at this term, on a demurrer of the respondents, The National Union Bank of Maryland, The National Mechanics' Bank of Baltimore, and The National Exchange Bank of Baltimore, to that part of the complainant's bill which seeks to recover from said respondents the collateral securities alleged by the bill to be in the hands of said banks respectively, upon which the said banks are alleged to have advanced to three of the other respondents, Lawrence P. Bayne, John Honeywell, and William T. Hough, copartners, trading under the name and firm of Bayne & Co., more than one-tenth part of the respective capitals of said banks actually paid in, and having been fully argued by counsel on both sides, and it appearing to this court
199 that the case, as made by the bill to which the demurrer applies, does not entitle the complainant to the relief prayed in this court as against said banks, it is therefore, on this eleventh day of October,

1869, adjudged, ordered, and decreed by this court, that the said bill, as far it concerns said respondents, The National Union Bank of Maryland, The National Mechanics' Bank of Baltimore, and The National Exchange Bank of Baltimore, be, and the same is hereby, dismissed.

WILLIAM F. GILES.

From which said decree, so as aforesaid passed, the said Joseph B. Stewart, by his solicitors aforesaid, in open court here, prayed an appeal to the Supreme Court of the United States to be held at the city of Washington on the first Monday in November next.

And afterwards, to wit, on the first day of March, in the year of our Lord 1870, the following submission was filed in said court, to wit:

In U. S. circuit court for the district of Maryland.—Equity docket No. —.

JOSEPH B. STEWART, PLAINTIFF,
vs.
ALLEN A. CHAPMAN & ALS., L. P. BAYNE & Co. & als., defendants.

By consent of parties, by counsel, this cause is set down for
200 final hearing on the bill and exhibits, the answer, and other papers on file.

S. T. WALLIS &
T. W. HALL, JR.,
Sol's for Trustees of Bayne & Co.
A. B. MAGRUDER,
Sol. for Pl'ff.

Whereupon the court made and passed the following decree, to wit:

Final decree.

In the U. S. circuit court for the district of Maryland.—Equity docket No. —.

JOSEPH B. STEWART, PLAINTIFF,
vs.
ALLEN A. CHAPMAN & ALS., TRUSTEES OF L. P. Bayne & Co. & als., defendants. } General creditors' bill.

This cause came on this day to be finally heard, by consent of parties, on the papers formerly read, and was argued by counsel, on consideration whereof the court doth adjudge, order, and decree that the bill be dismissed, and that the defendants recover against the plaintiff their costs in this behalf expended.

WILLIAM F. GILES.

201 From which said decree, so as aforesaid passed, the said Joseph B. Stewart, by his solicitors aforesaid, on the 16th day of September, A. D. 1870, prayed an appeal to the Supreme Court of the United States to be held at the city of Washington on the first Monday in December next; and to him it is granted.

Thereupon it is ordered by the court here, that the record and proceedings aforesaid, with all things relating to the same, be transmitted to the said Supreme Court; and the same are transmitted accordingly.

Appeal bond.

Know all men by these presents, that we, Joseph B. Stewart, Alexander

Hay, and George Small, are held and firmly bound unto the National Union Bank of Maryland, the National Mechanics' Bank of Baltimore, the National Exchange Bank of Baltimore, Lawrence P. Bayne, William T. Hough, John Honeywell, William Bayne, Allen A. Chapman, and Horatio R. Riddle, in the just and full sum of three hundred dollars, to be paid to the National Union Bank of Maryland, the National Mechanics' Bank of Baltimore, the National Exchange Bank of Baltimore, Lawrence P. Bayne, William T. Hough, John Honeywell, William Bayne, Allen A. Chapman, and Horatio R. Riddle, their cer-
202 tain attorney, executors, administrators, or assigns, to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this sixteenth day of September, in the year of our Lord one thousand eight hundred and seventy.

Whereas lately, at a circuit court of the United States for the fourth circuit, in and for the district of Maryland, begun and held on the first Monday of November, in the year of our Lord eighteen hundred and sixty-nine, in a suit depending in said court between the said Joseph B. Stewart, complainant, and The National Union Bank of Maryland, The National Mechanics' Bank of Baltimore, The National Exchange Bank of Baltimore, Lawrence P. Bayne, William T. Hough, John Honeywell, William Bayne, Allen A. Chapman, and Horatio R. Riddle, defendants, a decree was rendered against the said Joseph B. Stewart; and the said Joseph B. Stewart having prayed an appeal from the said decree to the next term of the Supreme Court to be holden at Washington on the first Monday in December next:

Now the condition of the above obligation is such that if the said Joseph B. Stewart shall prosecute his said appeal to effect, and answer all damages and costs if he fail to make his appeal good, then the above obligation to be void; else to remain in full force and virtue.

JOSEPH B. STEWART. [SEAL.]
ALEXANDER HAY. [SEAL.]
GEO. SMALL. [SEAL.]

203 Signed, sealed, and delivered in presence of—
W'M C. BORDLEY,
as to Alexander Hay, and
GEOR. SMALL,
as to Joseph B. Stewart.
JOHN H. LOWE.

(Endorsed:) "Bond approved 16 Sept., 1870. William F. Giles."

204

205 The United States of America to The National Union Bank of Maryland, The National Mechanics' Bank of Baltimore, The National Exchange Bank of Baltimore, Lawrence P. Bayne, William T. Hough, John Honeywell, William Bayne, Allen A. Chapman & Horatio R. Riddle, Conway, Slaughter & Co., John J. Chancellor, A. N. Bastable, Thomas N. Walter, Martha Bell, Samuel Turbett, John Deitz, W. M. Meyerberg, Kirkland, Chase & Co., Oscar King, William D. Jones & Co., O. Broehme & Co., and W'm Fell Giles, jr., greeting:

You are hereby cited and admonished to be and appear at a Supreme

Court on the first Monday in December next, pursuant to an appeal filed in the clerk's office of the circuit court of the United States for the fourth circuit in and for the Maryland district, wherein Joseph B. Stewart et al. are appellants and you are appellees, to show cause, if any there be, why the decree rendered against them, the said Joseph B. Stewart et al., should not be reversed, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal this second day of November, in the year of our Lord one thousand eight hundred and seventy.

WILLIAM F. GILES. [SEAL.]

Service acknowledged this 3rd day of November, A. D. 1870.

THEOS. B. HORWITZ,
Sol. for The National Mechanics' B'k of Balt.

J. NEVETT STEELE,
Sol. for National Union Bank of Maryland.

206 W. F. FRICH,
Sol. for Nat'l Exch'ge Bank of Balt.

T. W. HALL, JR.,
Sol'r for Trustees of Bayne & Co.

W'M FELL GILES, JR.,
Assignee of Lawrence P. Bayne, William T. Hough, & John Honeywell.

BAYNE & CO.,
Per JOHN HONEYWELL.

207 In testimony that the aforegoing is a true copy taken from the record and proceedings in the circuit court aforesaid, I hereunto subscribe my name and affix the seal of the said circuit court this third day of November, in the year of our Lord one thousand eight hundred and seventy.

[SEAL.]

JAMES W. CHEW,
Clerk Circuit Court.

(Indorsement on cover:) No. 285. Joseph B. Stewart, appellant, vs. The National Union Bank of Maryland, The National Mechanics' Bank of Baltimore, Lawrence P. Bayne, et al. Maryland C. C. U. S. Filed 11th November, 1870.

TRANSCRIPT OF RECORD.